# JOURNAL

OF THE

# HOUSE OF REPRESENTATIVES

OF THE

# COMMONWEALTH OF KENTUCKY,

BEGUN AND HELD IN THE TOWN OF FRANKFORT, ON MONDAY THE FIFTEENTH DAY OF OCTOBER, 1821, AND OF THE COMMONWEALTH, THE THIRTIETH.

FRANKFORT:

PRINTED BY KENDALL AND RUSSELL,

PRINTERS FOR THE STATE.

1821.

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# HOUSE OF REPRESENTATIVES.

AT A GENERAL ASSEMBLY begun and held for the State of Kentucky, at the Capitol, in the Town of Frankfort, on Monday the fifteenth day of October, in the year of our Lord one thousand eight hundred and twenty-one, and in the thirtieth year of the Commonwealth.

On which day (being that appointed by law for the meeting of the General Assembly) the following members of the house of representatives appeared, to-wit:

From the county of Adair, Nathan Gaither and Benjamin Selby; from the county of Allen, Johnston J. Cockerill; from the county of Barren and part of Monroe Joel Yancey and Joseph G. Hardin; from the county of Butler, John Harreld; from the county of Bath, Thomas Fletcher; from the county of Bracken, John H. Rudd; from the county of Bourbon, Thomas C. Hughes, James M. Cogswell and Nicholas Talbot; from the county of Bullitt, Jas. Alexander; from the county of Breckinridge, David R. Murray; from the county of Caldwell and part of Trigg, Hugh M'Cracken; from the county of Christian and part of Trigg, James C. Cravens and John Pendleton; from the county of Cumberland and part of Monroe, Lemuel Williams; from the county of Campbell, Alexander P. Sandford; from the county of Clarke, William M'Millan and Colby H. Taylor; from the county of Casey, William Goode; from the county of Clay and part of Perry, James Love; from the county of Estill, Jesse Noland; from the county of Fayette, James E. Davis and John R. Witherspoon; from the county of Floyd and part of Perry, James Stratton and Samuel May; from the counties of Franklin and Owen, Benjamin Taylor and John H. Todd; from the county of Fleming, John Taylor and James Crawford;

from the county of Greenup, Horatio Catlett; from the county of Grayson, William Inglish; from the county of Green, Liberty Green; from the county of Garrard, John Yantis and Benjamin Mason: from the county of Henderson, Francis Lockett: from the county of Hopkins, William Gordon; from the county of Hardin, Martin Hardin and Christopher Miller; from the county of Henry, Charles H Allen and Joseph Lecompte; from the county of Hart, Richard J. Munford: from the county of Harrison, Benjamin Warfield and Samuel Griffith: from the county of Jefferson, Lee White and Craven P. Luckett; from the county of Jessamine, John Jackman; from the counties of Knox and Harlan, Andrew Craig; from the counties of Lincoln and Rockcastle, William Smith and Schuyler Barnett; from the county of Lewis, Horatio Bruce; from the county of Livingston, William Thompson: from the county of Muhlenberg, John S. Eaves; from the county of Mason, Jacob A. Slack and Benjamin Desha: from the county of Montgomery, Jilson Payne and John Mason; from the county of Mercer, George C. Thompson and David G. Cowan: from the county of Madison, Thomas C. Howard, James Stone and James Dejarnett; from the county of Nelson, Charles A. Wickliffe, Thomas Speed and Elias Kincheloe: from the county of Nicholas, William M'Clanahan and Hugh Wiley; from the county of Ohio, John Calhoun; from the county of Pulaski, George B. Cooper; from the counties of Pendleton and Grant, Stephen Mullens; from the county of Simpson, William Lynch; from the county of Scott, Thomas H. Bradford and James Patterson; from the county of Shelby, John Younger, William Logan and George Pearcy; from the county of Todd, John S. Anderson; from the county of Union, Hugh M'Elroy; from the county of Wayne, James Stone; from the county of Whitley, Burton Litton; from the county of Warren, Robert F. Slaughter and Samuel S. Brooking: from the county of Woodford, James M'Connell and John Buford; and from the county of Washington, John Pope, Dabney C. Cosby and Samuel M'Elroy.

Who constituting a quorum, and having taken the several oaths required by the constitution of the United States and the constitution and laws of this state, repaired to their seats.

Mr. George Shannon, a member returned to serve in this house from the county of Fayette: Mr. J. Clarke, a member returned from the county of Jessamine; Mr. A. Butler,

a member returned from the county of Logan; Mr. William Worthington, a member returned from the county of Mason; and Mr. Thomas P. Moore, a member returned from the county of Mercer—severally appeared, produced certificates of their election, and took the oaths prescribed by the constitution of the United States and of this state; but declined taking the oath prescribed by the act of assembly, more effectually to suppress the practice of duelling, and the acts amendatory thereof, and claimed a right to their seats without taking said oath: whereupon,

*Resolved*, That they be admitted to exercise the rights and privileges of members, until the further order of this house.

Mr. George C. Thompson was unanimously elected Speaker to this House during the present session, and conducted to the chair; from whence he made acknowledgements for the honor conferred, and recommended the observance and preservation of good order and decorum.

Mr. Robert S. Todd was unanimously elected Clerk: Mr. Richard Taylor was unanimously elected Sergeant at Arms; and Mr. Roger Devine Door-keeper.

*Ordered*, That they severally give their attendance accordingly.

A message from the senate by Mr. Jones:

*Mr. Speaker*,

I am directed to inform this house, that the senate having met, formed a quorum, and elected their officers, is now ready to proceed to legislative business.

And then he withdrew.

*Ordered*, That a committee of propositions and grievances be appointed; and a committee was appointed, consisting of messrs. M'Millan, Vantis, Smith, Murray, B. Taylor, Patterson, Buford, Gaither, Calhoun, Rudd and Crawford, and such other members as may from time to time choose to attend; who are to meet and adjourn from day to day, and to take under consideration all propositions and grievances which may come legally before them, and all such matters as shall from time to time be referred to them, and report their proceedings with their opinion thereupon to the house. And the said committee shall have power to send for persons, papers and records, for their information.

*Ordered*, That a committee of privileges and elections be appointed; and a committee was appointed, consisting of messrs. A. Butler, Speed, Todd, Slaughter, Love, Bradford, Cowan, Cravens, J. Mason, Slack and Worthington,

who are to meet and adjourn from day to day, and take under consideration and examine all returns for members to serve in this house during the present session of the general assembly, and all questions concerning privileges and elections, and report their proceedings with their opinion thereupon to the house. And the said committee shall have power to send for persons, papers and records, for their information.

*Ordered*, That a committee of claims be appointed; and a committee was appointed, consisting of messrs. Howard, Allen, Clarke, Barnett, Williams, B. Mason, Lockett, Brooking, Selby, Gordon and J. S. Anderson, who are to meet and adjourn from day to day, and take under consideration all public claims, and such other matters as may from time to time be referred to them, and report their proceedings with their opinion thereupon to the house. And the said committee shall have power to send for persons, papers and records, for their information.

*Ordered*, That a committee for courts of justice be appointed; and a committee was appointed, consisting of messrs. Logan, Pope, R. C. Anderson, Brents, Fletcher, Wickliffe, Shannon, Osby, Moore, Warfield and W. O. Butler, who are to meet and adjourn from day to day, and take under consideration all matters relating to courts of justice, and such other as may from time to time be referred to them, and report their proceedings with their opinion thereupon to the house. And the said committee are to inspect the journals of the late session, and draw up a statement of the matters then depending and undetermined, and the progress that was made therein; also, to examine what laws have expired since the last session, and inspect such temporary laws as will expire with this, or are near expiring, and report the same to the house, with their opinion which of them ought to be revived and continued. And the said committee shall have power to send for persons, papers and records, for their information.

*Ordered*, That a committee of religion be appointed; and a committee was appointed, consisting of messrs. Payne, Yancey, Witherspoon, S. M'Elroy, Pearcy, Munford, Lockett, Greene, Goode, Miller and Mullens, who are to meet and adjourn from day to day, and take under consideration all matters and things relating to religion and morality, and such other as may from time to time be referred to them, reporting their proceedings with their opinion thereupon to the house. And the said committee shall

have power to send for persons, papers and records, for their information.

Mr. James Stonestreet was *unanimously* elected clerk of the committees of propositions and grievances, and privileges and elections; and Mr. Jacob Swigert, clerk of the committees of claims, religion, and for courts of justice.

*Ordered*, That the rules of the last, be adopted as those of the present session; and that the public printers forthwith print one hundred and fifty copies thereof, for the use of the members of this house.

*Ordered*, That a message be sent to the senate, informing them that this house having met, formed a quorum and elected their offices, is now ready to proceed to legislative business; and that Mr. M'Millan carry the said message.

On motion,

*Ordered*, That Messrs. Yantis, M'Millan, B. Mason and Howard, be appointed a committee on the part of this house, to meet such committee as may be appointed on the part of the senate, to wait on the Governor, and inform him that the assembly have convened, and are now ready to receive any communication he may think proper to make; and that Mr. Yantis inform the senate thereof, and request the appointment of a committee on their part.

On motion,

*Ordered*, That Messrs. Amos Kendall and James G. Daha, be severally permitted to take seats within the representative chamber, for the purpose of taking sketches of the proceedings and debates of this house during the present session.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate have appointed a committee on their part, to act in conjunction with the committee appointed on the part of this house, to wait on the Governor, and inform him that the general assembly have convened, and are now ready to receive any communication he may think proper to make.

And then he withdrew.

On motion,

*Ordered*, That the clerk of this house be permitted to avail himself of the assistance of Mr. James Stonestreet in the execution of his office, during the present session.

Mr. Yantis from the joint committee appointed to wait on the governor, reported that the committee had performed the duty assigned them, and were informed by his excellency, that he would by his secretary, make a communication (by

way of Message) to both branches of the general assembly, on to-morrow at eleven o'clock in their respective chambers.

And then the house adjourned.

## TUESDAY, OCTOBER 16, 1821.

Mr. Benjamin Johnson, a member returned to serve in this house from the county of Boone, appeared, produced a certificate of his election and of his having taken the oaths prescribed by the constitution of the United States, and the constitution and laws of this state, and took his seat.

Mr. Moore presented the petition of sundry citizens of Casey county, praying that a part of said county may be added to the county of Mercer.

Mr. Alexander presented the petition of sundry citizens of Bullitt and Jefferson counties, praying that a law may pass, declaring Floyd's fork of Salt river navigable, from Funk's mill to its mouth.

Mr. Howard presented the petition of William Alford, praying a divorce from his wife, Sally Alford, late Sally Barker.

Mr. Payne presented the petition of Milly Cleveland, praying a divorce from her husband, William Cleveland.

Mr. Cockerill presented the petition of sundry citizens of Allen county, praying for the reduction of the fees now allowed by law to clerks, sheriffs, constables and justices of the peace.

Mr. Slaughter presented the petition of Esther Holder, praying a divorce from her husband, Bradley Holder.

Mr. Shannon presented the petition of Christopher Keizer, Jr. and John M. M'Calla, guardians of John, Lucy and Amanda Keizer, praying that the sale of a slave owned by them jointly and sold for their joint benefit, may be legalized and confirmed.

Mr. Payne presented the petition of William Means praying a divorce from his wife, Mary Means

And Mr. Yancey presented the petition of Polly Simpson, praying that the balance of the state price due on 200 acres of land in Barren county owned by her, may be remitted and that a grant may issue to her for the same.

Which petitions were severally received, read and referred, the first to the committee of propositions and grievances; the second to a select committee of Messrs. Alexander, White, Luckett and Logan; the third, fourth, sixth and

eighth to the committee of religion; and the fifth, seventh and ninth to the committee for courts of justice.

Mr. William O. Butler, a member returned to serve in this house from the county of Gallatin, appeared, produced a certificate of his election, and of his having taken the oaths prescribed by the constitution of the United States, and the constitution and laws of this state, and took his seat.

Mr. Logan presented the memorial and petition of Michael W. Hall, representing that Joseph G. Hardin, the member returned from Barren county and part of Monroe, has been illegally returned, not having received a majority of the legal votes given; and that *he* is entitled to a seat, having received a majority of legal votes, and praying to be permitted to take his seat in lieu of the returned member.

Which was received, read, and with the accompanying documents, referred to a select committee of Messrs. Logan, Gaither, A. Butler, R. C. Anderson, Howard, Shannon, Fletcher, Pope and Moore.

A message from the Governor by Mr. Breckinridge, his Secretary:

*Mr. Speaker and Gentlemen of the House of Representatives,*

I am directed by the Governor to deliver to you a message in writing.

And then he withdrew.

The said message was then taken up and read as follows, viz:

*Fellow-Citizens of the Senate,*
*and of the House of Representatives,*

The period which has elapsed since the adjournment of the General Assembly, has not been marked by any rare occurrence or afflictive calamity. Although some sections of the state have suffered by an unusual visitation of disease, the general good health of the community has been preserved. The products of agriculture are every where abundant. The operation of the laws has been without interruption, and the tranquility of society remains undisturbed.

It affords me sincere gratification, to communicate to you, the pleasing intelligence, that the pecuniary embarrassments of the country have been extensively relieved during the present year, by the ordinary returns of commerce, and the increased currency, furnished by the establishment of the Bank of the Commonwealth. The wisdom of the policy which gave birth to that institution, has received the decided

confirmation of a short experience; and the important benefits it has conferred on the distressed portion of our population, have strongly endeared it to the people. Its favours have been general—equal—and, for the most part, adequate to the pressure of the times.

But the establishment of such an institution, was not a measure of policy only. It may be strictly maintained, that it was obtruded by necessity.

The unexampled growth of these states, the diffusion of their commerce, the extent and value of their acquisitions, and the increase of their power, during that eventful and protracted struggle, in which civilized Europe beheld her most renowned nations contending with relentless ferocity for mutual demolition, imparted an accelerating impulse to their prosperity, and shed around them a splendour of fortune, unparalleled in the history of any former people.—Successful industry laid the foundation of unlimited credit, and impatient cravings for excessive gain, precipitated the adventurous into indiscriminate speculation. The advantages of our situation triumphed over every obstacle. The turmoils of ambition and the contests for dominion, which agitated and rent the kingdoms of the earth, profaned not this peaceful land. Our prosperity was nourished by the blood of Christendom.

The pacification in Europe, and the war in America, dried up the sources of our commercial wealth, by lessening our exports and depressing their value. Hence the losses consequent on great and unexpected changes—the stagnation of trade—the scarcity of money—the accumulation of debt, and the substitution of a paper for a metalic medium.

At the termination of the late war, the precious metals had every where disappeared, and excessive issues of paper supplied their place in most of the states. Hence a corresponding rise in all the subjects of property. On the probable continuance of this state of things, contracts were made and debts created. But it was of short duration.—The depreciated currency of the states, was regarded as an evil of dangerous tendency; and the more so, as it was one which the states could not speedily eradicate. A national bank, with a capital sufficient to furnish a national currency, was proposed and adopted, as a prompt and efficient remedy. Has it answered the proposed end? Does it afford a circulating medium for the Union? Whilst it crushes beneath its ponderous weight, every feeble corporation, and

displaces the notes of the specie paying banks within the sphere of its operations, are its notes any where to be found, except in the great emporiums of trade, or in discharging the silent and impoverishing operations of exchange?

Our country does not produce the precious metals, and a variety of causes, some of which are highly favorable to the freedom and happiness of mankind, have latterly diminished their annual production. They can be obtained only in the exchanges of commerce with foreign nations, and these exchanges must be conformable to various regulations beyond our control. To rely therefore, exclusively, for a circulating medium, on supplies, the acquisition of which we cannot regulate, is hazardous in the extreme. Accordingly, we perceive the difficulty, at this very moment, of obtaining an adequate supply of specie for the uses of the banks, and the necessity of those that continue to pay cash, to diminish the amount of their notes in circulation, by heavy and continued calls on their debtors.

The notes of the bank of the United States have ceased to circulate in Kentucky. The specie in the hands of individuals, is insufficient to pay the interest, on her entire debt. The state bank, to preserve her existence, has been compelled to close her vaults. How are the debts of the country to be paid? In specie? We have seen that it is impracticable. In the national currency? If generality of supply, and diffusiveness of circulation, are implied by the term, it may be answered, that no such currency exists. But may we not profit by the indulgence of time, and repair the wastes of extravagance by a prudent economy? If that measure be neither just nor reciprocal, which debars me from coercing the payment of my debt, and requires me to look forward to a distant remuneration of an augmented demand; it is a truth equally emphatic, that no measure can bring with it relief, which adds to the evil complained of, and doubles the number of those who are to bear it.—In situations highly commercial, the growth of luxury may have kept pace with the increase of wealth. But extravagance is not the vice of our country. Our people, collectively, are free from the reproach. Their misfortunes have originated from external causes, and that legislative requisition, by whose authority they should be called on to pay debts without money, to make bricks without straw, would be a solemn mockery, a cruel insult. May we not hope that our condition will gradually improve? Assuredly it must. The precious metals will flow back into the coun-

try with the resuscitation of commerce, notwithstanding the discouraging causes which of late have steadily operated to retard their increase, and even to diminish their amount. The exuberance of their resources, and the fidelity and fortitude of the people, will in the end deliver them. But it cannot be the policy of a wise and humane government to become an accessary in the depression of its citizens, by contributing to a violent destruction of credit and a general change of property. It is the duty of every government to supply a sound and sufficient circulating medium, and to prevent as far as practicable, the evils of a fluctuating currency, by means of which, the relative value of commodities is deranged, and the security of contracts impaired.—No man ought to be compelled to pay more, or permitted to pay less, than he contracted to pay. Specie itself is not of invariable value, although it is indubitably the best standard of value. It is not essentially valuable, but the representative of value, and bank notes are merely its representatives. In reference to this common standard, value is the price which the products of labour bear to money.—But this price is varied by the plenty or scarcity of money, or its representative, bank notes, as effectually, as by the plenty or scarcity of the subjects of primary necessity, & the fluctuations consequent upon an increase or diminution of the circulating medium of a country, will produce a change in the relative value of such medium in the inverse ratio of such diminution or increase. Hence the injustice of either subjecting the creditor to receive payment of a debt, contracted on the corresponding relations of a metalic and limited medium, in an enlarged & depreciated paper currency; or exacting from the debtor a discharge of his obligation, contracted on the relative value of the latter, in the enhanced medium of the former. In seasons of general depreciation, or extreme pressure, thus to coerce a literal obedience to contracts, against the principles of equity and the true intent of the undertaking, can neither amend the morals of individuals, nor strengthen the faith of nations. We should equally deprecate that p ofligate legislation, which wars against the rights of accumulating industry, and that rigorous sternness, which regards an unfortunate debtor as a victim due to legal vengeance. Mankind are peculiarly sensitive in relation to their monied concerns. There is a fatal tendency in the progress of society, to depress the poor, and substitute wealth for merit. Pecuniary calamities only, are punished as criminal. In an age of refinement, and in na-

tions highly civilized, we witness the persons of individuals, who are equal members of the social compact and the common property of their country, delivered over to the vilest passions of the worst of men. And even in our own code, we are startled by the monstrous anomaly of the imposition of severer restrictions on personal liberty, in actions for the recovery of money, than in prosecutions for felonies. It is a truth of eternal obligation, that every government should shield its citizens from the consequences of its own errors.

The Congress of the United States, in the recent measures adopted for the relief of the purchasers of public land, acted on the assumption, that the great and unforeseen diminution of the available currency of the Union, and the consequent inability of purchasers to meet their engagements with the government, without enormous losses or irreparable ruin, gave them a valid claim on her clemency and indulgence.

Epochs of severe pecuniary distress, will sometimes occur in all countries. Such an one at this moment exists, and its effects are commensurate with the commercial world. In such a crisis is it for legislative assemblies to witness in silence the general wreck of private independence and public prosperity, and supinely await the slow growth and dubious result of a new order of things, or avert the impending evils, by appropriate and decisive remedies? Of these the most obvious and salutary would seem to be an increase of the circulating medium. Such was the suffering condition of Kentucky, and such the remedy which has been devised.

The legislature was presented with the alternatives of a suspension of the collection of debts, or an option to the creditor to receive present payment in bank notes. The latter, I think, was properly chosen. A paper system, as a measure of relief, became inevitable, and the only question left for discussion, involved the character of the corporation to be employed as an agent.

The experience of our common country, by no means strengthens our confidence in the stability and safety of monied corporations, in the control of which the integrity of their directors is left at the mercy of their avarice. In the present crisis, a specie-paying bank cannot be profitable to the holders of its stock. If its issues be increased, its vaults must be shut up. If it fail to redeem its notes, its credit will sink. Thus, to continue its profits, it must violate its

faith. A paper currency cannot be sustained by the irresponsible agency of private corporations. It is only by the interposition of the ample resources and unquestioned faith of the state, that we can expect efficacy from such a system. All attempts to supersede the use of the precious metals, by the substitution of paper assurances, as a permanent and fixed medium of exchange, are as idle as they must be found to be impracticable. But to withhold from the solemn and binding pledges of an entire community, rich in resources, and stained by no single act of dishonor, that willing credence which is yielded to each and every of its individual members, is irrational in the extreme. Why shall not states, as well as individuals, anticipate their resources? To the Bank of the Commonwealth it cannot with fairness be objected, that the foundations of its credit are insufficient. Passing over the existing surplus of the revenue, which must be annually largely augmented, and the amount of stock at present owned in the Bank of Kentucky, which exceeds half a million, it may be safely calculated, that the lands south and west of the Tennessee river, are, in their present unimproved state, equal in value to the whole amount of capital of the new bank. If these lands be judiciously disposed of, one moiety, a few years hence, will be rendered equal to the present value of the whole, by the adjacent improvements of the sections first sold. It is evident, then, that the means provided for the redemption of her paper, are abundant. The government of the institution is confided to the representatives of the people. Its fate is in their own hands. Its credit may fluctuate, but it never can fail while they remain honest.

The continuance of such an institution, is the surest measure of relief. It has proved itself of easy and convenient application, by the simplicity of its operations, and the equality of its distributive character. The legislature, I trust, will be too strongly convinced of its utility, to endanger its accruing benefits, by the complexity of other and less salutary regulations; and will scrupulously abstain from any increase of its capital, or the passage of any other measure, which, by causing the notes in circulation to exceed the demands of business, and the imperative wants of the community or by weakening the confidence of the people in the solvency of the bank, may precipitate the destruction of the whole system, as a relief measure, by so far depreciating the paper as to stop its circulation. The credit of the paper must be sustained. A prompt and faithful

application of the means provided by your predecessors, to the purposes for which they were designed; and a denial of immediate execution, in all cases, where a willingness to receive notes of the existing banks, shall not be indicated, are the measures recommended to inspire confidence and obviate distress.

It is, however, to be remembered, that there are many individuals, whose condition cannot be improved by state legislation. They must look for deliverance, from the justice and liberality of the general government.

Whether the Bank of the Commonwealth, in its subsequent operations, shall be found to realise the hopes of its friends, or be destined to become the instrument of severer reverses, it is undeniable, that it has saved a considerable portion of the debtor population of the community, from poverty and ruin, and largely augmented the revenues of the state. The public funds are ample and increasing. A capital, sufficient to lay the foundation of valuable and lasting improvements, remains in your treasury, inactive, and unappropriated.—Surely it cannot be the true policy of any goverment, to become a hoarder; much less of a government like ours, which derives its support from the confidence and love of its citizens; and least of all, under circumstances which harass them by the pressure of peculiar and irritating wants. If the people be needy, the public wealth should be usefully disseminated. If the profits and employments of foreign commerce, can no longer be obtained, the necessity is increased for encouraging domestic industry and facilitating the means of internal intercourse. If provisions be cheap, and labor low, no time can be so judiciously selected, for the construction of costly and durable public works.

But if it be an undertaking, worthy the enlightened consideration of the legislator, to diversify and adorn the face of his country; if to multiply the conveniences, and give perpetuity to the improvements of its roads and its rivers, its edifices and its fields, be justly regarded as direct and powerful means of advancing human happiness, and confirming national glory, how momentous are the duties, how animating the motives, which terminate in the successful establishment of the great and diffusive interests of education! On this subject I feel so deep a solicitude, that nothing but a firm conviction of the existence of corresponding sentiments and dispositions on the part of the members of the general assembly, could induce me to forego a

recapitulation and enforcement of some of the most obvious inducements to renewed efforts, which have heretofore been presented by my predecessors in office. The commonwealth of Kentucky has made many, and liberal endowments, to her seminaries of learning; but these praiseworthy acts of munificence, have been generally rendered inefficacious, by negligence or indiscretion on the part of those to whose care the donations have been confided; and if subsequent legislatures have not opened fresh sources of supply, it may, in some measure, be attributed to a deficiency of means. That deficiency no longer exists. To our existing resources, so flourishing and abundant, we may confidently expect a vast acquisition, from an impartial distribution of that part of the national domains, already appropriated to a considerable extent, for the promotion of learning in the several states. In this state, the public mind has recently been awakened to its importance, and successful attempts have been made to emulate the usefulness of the most ancient and matured establishments in other countries. In republican governments, especially, the right education of youth is a matter of vital concern.

The institutions of learning should be sustained by legislative patronage, and be subject to legislative inspection and control. Such appear to have been the sentiments entertained by the legislature, a few years ago, when Transylvania University was re-organised, adopted as a state institution, and temporarily endowed. The aid then afforded, has been withdrawn, by repealing the charter of the Farmers and Mechanics' Bank of Lexington; and the University, in its enlarged form, and more expensive organization, is left to sustain itself by a precarious and slender reliance on tuition fees alone. Thus situated, it will soon cease to flourish—perhaps, to exist, as a place of general instruction. I must, therefore, with an earnest importunity, suited to the wants of an institution so important in its influence on the best interests of our country, and deriving from your adoption a legitimate claim to your protection, urge the propriety of a permanent annual appropriation, sufficient to supply the deficiency of its actual receipts, to meet its ordinary expenditures. At the same time, it is earnestly recommended to mature and adopt a system of general and cheap instruction, which in its details, shall pervade every part of the community, and bring home the blessings of a substantial and business education, to the door of every family. The accomplishment of such an un-

dertaking, perplexing as may be its arrangements, and expensive as must be its continued support, is not beyond the zealous and persevering application of our means It is due to the present age, and to posterity, that the attempt should be made. It is necessary to the purity and permanency of our civil and political institutions. and to our relative dignity and influence in the councils of the nation, that it should succeed.

I must again invite the attention of the Legislature to a consideration of the condition of the state Penitentiary.—If it be true that political institutions had their origin in the wants and fears of individuals. and were designed for the security of all the members of civil society, it is as great a perversion of the just ends of government, to extend the punishment of offenders beyond the measure required by the safety of the unoffending, as it would be to refuse redress to the injured, or protection to the weak. Punishments are inflicted for example and amendment. The former are public and intended to deter. The latter ought to be secret, and fitted to reform. To multiply capital offences beyond the number of those, which have for their object the destruction of human or national existence, bespeaks a pusillanimous and vindictive spirit of despotism. By a public and prolonged exhibition of ignominious punishment, calculated to humble and debase a being, whose want of self-respect has betrayed him to the commission of meanness or of crime; by consigning to one common mansion of guilt, all convicts of whatsoever grade, and compelling the high-minded, the enlightened, the unfortunate victim of a venial error, to consort with the atrocious murderer or ignoble thief, and from the influence of such a system and the contagion of such associations, to hope for final reformation, bespeaks a lamentable ignorance of human character. The pride of our legislation has never stooped to the ball and chain: its humanity admits, but on awful exigences, the horrors of the gallows. To the honor of Kentucky, it will hereafter be recorded, among the acts on which posterity will love to dwell, that in the very infancy of her government, she was among the first to assert the permanent triumph of civilization over the barbarous inflictions of sanguinary punishments. But whatever tends to change the established condition of mankind, or even to mitigate their sufferings, must be of slow progress; and whatever may have been the success of the Penitentiary system elsewhere, it is a cause of regret, that here, it has failed to realize the

expectations of its philanthropic founders. This disappointment, however, should be the less discouraging, from the consideration, that our failure has been the result, rather of a neglect or misapplication of means, than of any radical defect in the system itself.

Whether society can rightfully exact, as the forfeit of any act, the life of one of its members, is a question which has been too long confined to the schools. May we not indulge the fond hope, that it has been reserved for the auspicious age in which we live, to give birth to a new era in the history of criminal jurisprudence, and for the legislators of the new world, by the abolition of capital punishments, to add another trophy to the victories of enlightened freedom? But whatever may be the period from which we are to date the consummation of our hopes, we have every motive to present exertion, that can originate from the disappointment of well-founded expectations.

It is the peculiar excellence of the Penitentiary system, that it blends the ends of public example and personal reformation. Its characteristic defect is a tendency to corrupt the heart, by vicious association, and a hardened disregard of public opinion.

The following present themselves as the prominent defects in our system:—

The omission of solitary confinement;

The want of general instruction;

The absence of all distinctions of merit;

The infliction of corporal punishment; and

The neglect to furnish a suitable provision for the prisoner after his liberation.

Man is a social being.—The intercourse of his fellow-man, is essential to his happiness and necessary for the expansion of those noble faculties which distinguish him above all other animals. Unbroken solitude is the grave of his genius and his joys. Virtue herself wanders with melancholy aspect in the regions of exile, and sinks with despairing anguish amid the gloom of that dungeon, from which she is never to emerge. But absolute and compulsory solitude, when adopted as a punishment and inflicted for a season only, has been found productive of the most beneficial results. It is the inquisitor of the soul, and the tyrant of every vice.

It may be regarded as scarcely possible, that the guilty prisoner can long inhabit a cell, where darkness and silence reign undisturbed arbiters of his doom, without some re-

ening of purpose—some real penitence of heart. The moral faculty regains its lost dominion in his breast, and its solemn responses are regarded as oracular. He acquiesces with abated resentment, in the justice of the sentence by which he suffers. That audacious spirit of resistance to the established order of society, which drove him to the commission of every outrage, gives place to the mortifying sense of his weakness and dependance; and he ardently desires as the first of blessings, a return to that very society, from which his crimes have banished him.—Hence originate a disposition fitted for the reception of moral and religious instruction—a conformity to the requisitions of his present condition—a spirit of active industry, emulation, and amendment, as the means of present favor, and future restoration; and all the benefits which are consequent on regular habits, and amended morals. If the prisoner be wholly uneducated, he ought to be instructed in the elements of reading, writing, and common arithmetic. If he be destitute of the knowledge of some useful and creditable trade or occupation, he should be taught how to obtain a subsistence, by his skill and labor. Rewards should be offered, which would have for their end, present exemptions, and distinctions, and the shortening the time of confinement and service—and even in this abode of punishment, penalties should be inflicted, to deter from insolence, from negligence, and from petty vices. But corporal punishments, and every mark of ignominy, should be carefully avoided, as tending to debase and render desperate, those we would amend. In the place of all other modes of punishment, solitary confinement is recommended, as an invincible champion in the school of correction.

After the expiration of his time of service, the subject of partial reformation or more confirmed vices, is turned loose on the community, in the midst of strangers, without a shilling in his pocket, and with the badges of his recent disgrace, attracting derision and reproach, wherever he goes. Is this an ignominy to which his country should consign the wretch, who has drunk to the dregs the cup of humiliation? Is this a trial, to which even an offended country should betray him? No: Let the industrious convict be allowed a moderate portion of his own earnings, to bear him to his distant home—perhaps to his beggared family. I would save even the slothful and improvident, from this last scene of human degradation—permitting those who could not be restored to the confidence of their fellow-citizens, to hide

their unobtrusive faults, by gently sinking into their native obscurity.

It will, however, be found utterly impracticable, in the present situation of the institution, to carry into effect the whole, or any material part, of the plan above suggested. The buildings are wholly inadequate to the purposes for which they were designed, and are in a state of rapid decay.

Our population has outgrown our early establishments. While the corresponding ratio of crimes has diminished, the number of criminals has greatly increased. There is not sufficient space within the walls for the convicts to carry on their respective occupations—far less, for exercise and recreation. Half a dozen are crowded into one apartment, constructed for the accommodation of a single person. Frequent and severe disease is the consequence; and sometimes, it is to be feared, premature death.

By keeping all the convicts together during the day, and many during the night, those pernicious associations are formed, and continued, the effects of which are so much to be deprecated; and that continued or occasional solitary confinement, particularly in the early period of their term, the fruits of which are considered so salutary, rendered impracticable. The unrestrained communication which necessarily exists, affords daily opportunities for the consummation of desperate plots, while the dilapidated state of the buildings invites them to escape. It is cruel, thus to tempt beings, in whom the love of liberty is the ruling passion, to fly from imprisonment, when the very attempt, so natural—so irresistible, imposes new shackles and prolongs their bondage. In such a confined, insecure, and confused condition, little is to be hoped for or accomplished, in moral improvement, intellectual instruction, the formation of better habits, or the efficacy of example. Few are amended, and none reformed. Unless then, the legislature shall be prepared to abandon the mild system of corrective punishment, under the influence of which the safety and morals of the community have heretofore been so happily guarded and improved, the time has arrived, when it becomes indispensable to reorganize and enlarge the state Penitentiary.

But if the sympathies of the wise and good, are so deeply enlisted in mitigation of sufferings that the felon justly endures—what shall be the measure of that generous pity, which is excited by the sad spectacle of maniac bereavement? It is not among the fragments of mouldering columns, scattered over the sands of the desert;—it is not beneath a sol-

itary arch of some decayed citadel of subverted empire, that in the retrospect of the instability of human affairs, we learn the most instructive lesson of the vanity of human hopes. It is when we pause amid the ruins of the human mind; when we contemplate the destruction of those intellectual powers, which rendered their possessor lord of creation; and behold the imbruted madman, roving with dark and savage purpose through an affrighted land, which his philosophy had enlightened—his eloquence enraptured—his valor emancipated—and his benevolence blessed, that we impressively feel the worthlessness of every attainment, that does not dignify our motives, ennoble our pursuits, benefit our kind, and merit an everlasting reward. As the possession of reason is the glory and distinction of our nature, so its deprivation may be regarded as its heaviest calamity. The duties which we owe to the objects of such deprivation, are of most sacred obligation. Much may be done for their comfort—for their recovery; and we are responsible for all the good which we might, but will not do. Nay, the pride of superiority and the selfishness of interest, should conspire to impel us to acts of genuine mercy.—Who can say that in the mutability of his fortune, the light of his understanding shall continue to illumine the darkness of his path! Who will not rejoice in the perfection of an art that can break the fantastic fetters of the brain, and set free the imprisoned mind!

The provision afforded by law for persons of unsound mind, is liberal, but ineffectual. The subjects are unavoidably so situated, as in a great degree, to be destitute of proper discipline and regular medical attendance. They are frequently surrounded by the scenes and objects which produced their disorder, and which of all others, are worst adapted to "minister to a mind diseased"—exposed to the obtrusive observation of strangers—and sometimes subjected to the ill-judged severity of those, who may have been induced to take charge of them from motives of avarice.—Under such circumstances, cases of partial derangement frequently become incurable, and the wretched victim is rendered a terror to whole neighborhoods.—Thus it is, that the bounty of the state is squandered, and the miseries of its subjects aggravated. By converting the hospital, already erected at Lexington, and at present unappropriated for want of funds, into a state institution, where all the unsound of mind could be collected under one roof, and receive, gratuitously, daily visits from physicians of skill

and experience, and where the patients would be constantly attended by careful nurses, it is confidently believed, that numbers, who must otherwise be lost to their country, their families, and the enjoyment of Heaven's richest gift, might be restored to the high and active duties of life, and the uninterrupted enjoyment of a blessing, above all price. The vicinity of the institution, would prove highly beneficial to the medical school, which would in time repay the obligation, by useful discoveries in the treatment of mental maladies. And if I could believe, that in the consideration of a subject, hallowed by the best feelings of the human heart, calculations of mere profit and loss, could be admitted to influence the pure judgment of benevolence, I would demonstrate the cheapness of the proposed measure, as a conclusive argument for its adoption, in the stead of the present wasteful and annually increasing expenditure.

I cannot close this communication, without calling the attention of the legislature to the important subject of a revision of our statute laws.

It is recorded of one of the most odious tyrants of antiquity, that he caused his laws to be written in diminutive letters, and elevated on pillars so high as to be illegible to his subjects. Similar effects are sometimes produced by the most opposite causes.—An extreme solicitude to regulate and adjust all the concerns of society, by the mere force of legislation, will leave the unlearned and incurious, as ignorant of those regulations to which they are required to conform their acts, and by which their rights are decided, as the unhappy victims of the imperial monster. The only legitimate object of legislation, is the happiness of mankind; and all laws designed for their good, should be rendered accessible to their knowledge. Whatever may be the infirmities of our nature, in every country the great mass of the inhabitants, mean well. To just laws, impartially administered, they yield a voluntary obedience; the only submission that does not degrade. In free states, where the people either make the laws, or choose those who do, the principle of the government is corrupted, whenever the people cease to understand those laws. Hence the necessity in such governments, of a frequent recurrence to first principles—a clear and well defined exposition of rights and privileges—a fearless amputation of cumbrous and abrogated appendages, which enfeeble the body they deform—and a rigorous exclusion of those artificial modes and useless forms, in the conduct of public affairs, under which the im-

age of justice is hid, and which serve, when liberty expires, to exhibit an appearance of life, after the extinction of every principle of vitality.

It necessarily resulted from the origin and growth of the American commonwealths, that their legislation should be profuse, and their codes multiform. At the period of the the revolution, when the political relations which had subsisted between the British empire and her colonies, were dissolved, the latter still retained, as independent states, the old system of English common law and statutory jurisprudence. On this broad and deep foundation, composed of materials so much compounded, have been erected various structures, strongly resembling each other, and all essentially varying from the Gothic model. The love of liberty, indigenous in the hearts of our people, has incessantly impelled them to fortify their rights by precautionary enactments, while their enterprising and commercial spirit, cherished by free and liberal institutions, has perpetually furnished new subjects for legislation, and multiplied municipal regulations. The twofold character which we sustain, as separate members of a sovereign and independent community, and citizens of one common, vast, national confederacy, by rendering our relations more complex, accumulates the obligations which bind us to each other. And it is not to be forgotten, that when the government of Kentucky was established, the young state received as an ample portion of her patrimony, whatever was applicable to her wants, or conducive to her accommodation, from the legal archives of her venerable parent. To these resources, so various and so rich, successive legislatures have continued to add with persevering industry and undiminished bounty. I am apt, however, to believe, that in the zealous exercise of this favorite spirit of legislation, laws have been hurtfully enacted, on many subjects. Among the numerous evils attendant on excessive legislation, may be reckoned, the danger of all legislation by reason of the uncertainty of the existing laws. To legislate with wisdom or even with safety, we must fully understand the system in relation to which we legislate; and before the legislator shall venture to expunge an old, or insert a new statute, it behoves him to estimate the practical results, in relation to the residue of his code. In rudely demolishing the appendant scaffolding, we may shake the pillars which support the temple.

When laws have become so voluminous, that none but men of leisure can read them; when they have been render-

ed, by repeated amendments, repeals and re-enactments, so intricate, that they are difficult to be understood, except by men whose profession it is to study and illustrate them; and when, by these frequent changes, they have been rendered so uncertain, that the people are afraid to contract on the faith of them, lest they may have been repealed before the period of their general dissemination, it may with justice be pronounced, that the protection of the citizen, has measurably ceased to be secured by such laws. It is to be feared, that many of the primary magistrates of such a country—a most important body of officers, the exercise of whose powers in the diffusive concerns of life, daily comes home to the business and bosoms of men—will often be deterred from prosecuting their unsatisfactory researches into the chaos of the laws; while others will be induced to resign stations, so perplexing and responsible. A fluctuating, or undefined condition of the laws, begets discontent among all reflecting and moral men; and affords abundant opportunity and temptation, for the indolent and vicious to perpetrate their crimes with destructive impunity. By the useless multiplication of statutory regulations on the same subjects; by frequent and rapid changes, and a long neglect of the proper means to methodize and reduce to a simple form and convenient bulk, the laws in operation and scattered through numerous volumes, the great body of the citizens of a representative republic, may, in time, become ignorant of those very laws which they mediately enact. To arrest at the threshold the deleterious operation of causes like these—distinctly to present to the members of the general assembly the statute laws of the commonwealth, actually in force, in one continuous and condensed view, enabling them to trace, as on a faithful chart, the exact lineaments of our legislation; to detect omissions, to remedy defects, and impart to the whole a unity of design, and harmony of expression; and to place within the reach of every public officer and private citizen, in a cheap and intelligible form, those rules which prescribe his most solemn duties and define his most sacred rights, the proposed revisal is respectfully and earnestly recommended.

Since the last session of the legislature, a question has been agitated before the supreme court of the United States, on a subject deeply interesting to the people of this state. Owing to the unfortunate uncertainty in our land titles, it was seen at an early period of the independence of this commonwealth, by its legislature, that without an adequate pro-

vision to indemnify the *bona fide* occupant of land, for the lasting and valuable improvements which he should make upon it, in the event that his own title, believed by himself to be good, should prove defective, the progress of settlement and improvement would, if not prevented, be greatly retarded. To secure that indemnity, the legislature, accordingly, as far back as 1797, passed an act, and at subsequent periods passed other acts on the same subject. Whatever diversity of opinion may have existed, as to the expediency of some of the provisions in the latter acts, the legislature never doubted its authority to pass all of them; and this authority has been affirmed to exist by our highest judicial tribunal, in every instance where the question has been made. To estimate the great benefits flowing from the security and confidence inspired by this system, we have only to imagine what appearance, without it, the face of the country would now exhibit, and compare it with the state of improvement actually existing. The validity of some of those acts has been called in question before the supreme court, upon the ground of their imputed repugnancy to the compact between Kentucky and Virginia. It is remarkable, if the repugnancy really exists, that Virginia herself has never complained of it; and that she has never asked for the constitution of that tribunal which the compact itself, contemplating possible infractions of its stipulations, provides for; but that, on the contrary, she has for such a length of time acquiesced in that course of legislation, which the policy of this state imperiously demanded, and which has so essentially promoted its prosperty. That the state of Kentucky has intended strictly to observe the compact, cannot be doubted; for besides the good faith which has ever characterised it, the compact has been incorporated in both our constitutions—one of which was adopted subsequently to the act of 1797; and thus has given to it the most solemn and fundamental obligation. The character of the state, and the public interest, would alike seem to require that no measure should be omitted, which may tend to vindicate both. I submit, therefore, to your consideration, the propriety of retaining counsel to support, in behalf of this state, the validity of its laws; and also the expediency of opening a communication with Virginia, for the purpose of those mutual amicable explanations which may be called for by the occasion.

In obedience to a resolution passed during the last session of the general assembly, requesting me, as soon as practica-

ble, to cause to be run and marked, that part of the boundary line between this state and the state of Tennessee, which lies between the south-eastern corner of this state and Walker's line, as marked on Cumberland river, near the mouth of Obie's river, agreeably to the ratification of the boundary line, as lately established between this state and the state of Tennessee; Col. William Steele, of Woodford county, was appointed surveyor on the part of this state, and in conjunction with the surveyor appointed by the governor of the state of Tennessee, has performed the duty contemplated by that resolution. An authentic copy of their joint report, accompanies this communication. I have no doubt of its entire accuracy. It only remains, for you to approve the work, and fix the compensatian of the agents employed on the part of this government.

I beg you to accept my best wishes for a happy termination of your deliberations, and my assurances of a cordial co-operation in all measures calculated to promote the public good.

JOHN ADAIR.

Frankfort, October 16, 1821.

We the undersigned William Steele and Absalom Looney, being appointed by the states of Kentucky and Tennessee, to run and mark the boundary line between the said states, from the south eastern boundary of the state of Kentucky, at Cumberland mountain, to the Cumberland river near the mouth of Obed's river, agreeable to the articles of treaty between the two states, William Steele on the part of Kentucky, and Absalom Looney on the part of Tennessee, and in pursuance of said appointments, have proceeded to run and mark said boundary, as follows:—Beginning at seven pines and two black oaks, on the top of Cumberland mountain, on the Tennessee line, one mile and a half and twelve poles southward from the Cumberland gap; and thence with Walker's old marked line south, eighty-six degrees west by the magnetic meridian crossing the left hand fork of Yellow creek at one mile, crossing Mingo mountain and crossing Bennett's fork of Yellow creek at five miles, then crossing log mountain, and crossing Bowman's fork of the Clear fork of Cumberland at nine miles, and the Trace fork at twelve miles, and Buffalo at fifteen miles, and the Laurel fork at eighteen miles, and Tom's creek at nineteen miles, and Primroy at twenty-one miles; then crossing Pine mountain, and crossing the Clerk fork of Cumberland river in the lot at twenty-five miles; then crossing Hackle

knob to the Elk fork, at twenty-eight miles; then crossing Indian creek at twenty-nine miles—crossing Gillico mountain and crossing Gillico creek at thirty-three miles, and crossing the right hand fork of Gillico at thirty-six miles, and crossing Rock creek at forty-one miles, and crossing Marsh creek at forty-seven miles, and Roaring Ponch at forty-nine miles, and Bear creek at fifty-four miles, and crossing the big South fork of Cumberland at fifty-eight miles, and crossing Rock creek at sixty eight miles, and crossing the left hand fork of the little South fork at seventy-six miles, and passing the Chimney (or Pilot) Rock at seventy-eight miles; then crossing the Poplar mountain into Stockton Valley at eighty-seven miles; then crossing Piles' Turnpike road at ninety miles; then crossing Wolf river six times, to-wit: at ninety-six miles, ninety-seven, and twice in ninety-nine, and at one hundred and three miles, and crossing Sulphur creek at one hundred and four miles, and crossing Kettle creek at one hundred and twelve—in all one hundred and fourteen miles to three hackberry trees on the bank of Cumberland river, opposite to the point where Walker's old marked line strikes the Cumberland river on the west side, and about twenty poles above John Ken's house. Began on the twenty-first day of May, and ended on the ninth day of July, 1821.

Done in duplicate this 9th day of July, 1821, on the line near Obed's river.

WM. STEELE, *Surveyor, Kentucky.*
A. LOONEY, *Surveyor, Tennessee.*
WILLIAM STEELE, JR. *Assistant.*

*Berry Searcy,*
*Samuel Lane,*
*Daniel G. Miller,*
*Wm. Johnson,*
*George Argenbright,*
*Richard Steele.*
} Chain Carriers and Markers.

| | | | | |
|---|---|---|---|---|
| To amount paid Berry Searcy for 58 days in the above service, | - - - - - - - - | | | $58 00 |
| To do. | do. Samuel Lane | 50 | do. | 50 00 |
| To do. | do. Danl. G. Miller, | 52 | do. | 52 00 |
| To do. | do. Geo. Argenbright, | 47 | do. | 47 00 |
| To do. | do. Wm. Johnson, | 47 | do. | 47 00 |
| To do. | do. Richard Steel, | 47 | do. | 47 00 |
| To do. | do. for subsistence, forage, &c. | | do. | 239 00 |
| To do. | do. for pack horses, &c. | | do. | 57 00 |
| | | | | $597 00 |

The above amount as stated was paid by William Steele, on the part of Kentucky, and Absalom Looney, on the part of Tennessee, each an equal part.

WM. STEELE,
A. LOONEY.

9th July, 1821.

*Ordered*, That the public printers forthwith print 1500 copies of said message and accompanying document, for the use of the members of this house.

Mr. Moore moved the following resolutions, viz:

1. *Resolved*, that so much of the governor's message as relates to the bank of the commonwealth of Kentucky and the sale of the lands south-west of the Tennessee river, be referred to a select committee.

2. That so much of the said message as relates to education and schools, be referred to a select committee.

3. That so much of the said message as relates to the Transylvania university, be referred to a select committee.

4. That so much of the said message as relates to the establishment of a Lunatic Hospital, be referred to a select committee.

5. That so much of the said message as relates to the revision of the statute laws of this state, be referred to a select committee.

6. That so much of the said message as relates to the decision of the supreme court of the United States upon the occupying claimant laws of this state, be referred to a select committee.

7. That so much of said message as relates to the late survey of the boundary line between this state and the state of Tennessee, be referred to a select committee.

8. That so much of said message as relates to imprisonment for debt, be referred to a select committee.

9. That so much of said message as relates to the Penitentiary, be referred to a select committee.

Which being twice read, were adopted.

Whereupon, messrs. Brents, Slaughter, Speed, Warfield and Davis, were appointed a committee pursuant to the first resolution; messrs. Payne, M'Millan, Howard, W. O. Butler and Sandford, pursuant to the second resolution; messrs. Moore, Shannon, Fletcher, Calhoun, Luckett, Gaither and Brooking, pursuant to the third resolution; messrs. Witherspoon, Slaughter, B. Mason, Gaither and Jackman, pursuant to the fourth resolution; messrs. Wickliffe,

Logan, Allen, Cosby and Crawford, pursuant to the fifth resolution; messrs. Pope, Todd, Fletcher, Warfield and Desha, pursuant to the sixth resolution; messrs. Love, Logan, Williams, Smith and Jackman, pursuant to the seventh resolution; messrs. A Butler, Yantis, Clarke, Shannon, Cowan, J. Mason and Buford, pursuant to the eighth resolution; and messrs. B. Taylor, Rudd, M'Connell, C. H. Taylor, Barnett, Bradford and Dejarnett, pursuant to the ninth resolution.

On the motion of Mr. Wickliffe,

*Ordered*, That leave be given to bring in a bill to amend the act entitled an act more effectually to suppress the practice of duelling; and that Messrs. Wickliffe, Johnson, Moore, A. Butler and Catlett, be appointed a committee to prepare and bring in the same.

And then the house adjourned.

## WEDNESDAY, OCTOBER 17, 1821.

Mr. Edwards King, a member returned to serve in this house from the county of Cumberland and part of Monroe, appeared, produced a certificate of his election, and of his having taken the oaths required by the constitution of the United States and the constitution and laws of this state, and took his seat.

A message from the senate by Mr. Lee, their secretary:

*Mr. Speaker*,

The senate have appointed a committee of enrolled bills, and request a similar appointment on the part of this house.

And then he withdrew.

Whereupon, messrs. Yantis, Warfield, Murray, Crawford, Davis and Jackman, were appointed a committee of enrollments on the part of this house.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. Todd presented the memorial of William Littell and Jacob Swigert, representing that they have compiled and arranged in alphabetical order, under appropriate heads, a complete *synopsis* of all the statute laws of a public and general nature now in force in this state, and praying that public patronage may be extended to their work, to supply the place of the contemplated revision, under legislative authority.

Mr. Lynch presented the petition of Nancy Howdeshelt of Simpson county, administratrix of the estate of her deceased husband, Isaac Howdeshelt, praying that a law may

pass, authorizing a sale of a part of the real estate of said decedent.

Mr. Howard presented the petition of Archibald Woods of Madison county, praying a divorce from his wife Dorcas, late Dorcas L. Henderson.

Mr. Wickliffe presented the petition of sundry citizens of Nelson county, praying that Joseph Huston may be permitted to complete his dam and mills, commenced on the Rolling fork of Salt river.

Mr. Shannon presented the petition of Nancy Garth, late Nancy Th mpson, praying a divorce from her late husband, Thomas Garth.

Mr. Cravens presented the petition of Susan Stroud, late Susan Green, praying a divorce from her husband, William Stroud, Jr.

Mr. Miller presented the petition of Dorcas Burch, praying a divorce from her husband, Leonard Burch.

Mr. J. Mason presented the petition of Margaret Stewart, praying a divorce from her husband, Stephen Stewart.

Mr. Pendleton presented the petition of Polly Dawson, praying a divorce from her husband, Barkley Dawson.

And Mr. Noland presented the petition of Debe Jinnons, praying a divorce from her husband, Daniel Jinnons.

Which petitions were severally received, read and referred; the first to the committee to whom was referred so much of the Governor's message as relates to the revision of the statute laws of this commonwealth; the second to a select committee of messrs. Lynch, Slaughter, Cockerill and Thompson; the third, fifth, sixth, seventh, eighth, ninth and tenth, to the committee of Religion; and the fourth to the committee of propositions and grievances.

The speaker laid before the house a letter from the Auditor of Public Accounts, covering sundry documents exhibiting the state of that office on the 10th instant, which is in the following words:

AUDITOR'S OFFICE, 17th October, 1821.

DEAR SIR.

You will please to lay before the house over which you preside, the accompanying statements, from No. 1 to 7, and very much oblige,

Yours Respectfully,

PORTER CLAY, Aud.

*George C. Thompson, Esq. Speaker of the house of Representatives.*

(No. 1.)

*A statement of moneys received and paid at the Treasury during twelve months, ending on and including the 10th day of October, 1821, viz:*

| | | | | |
|---|---|---|---|---|
| For the revenue collected by sheriffs | | | | |
| for the year | 1796, | $20 00 | | |
| Ditto | 1817, | 13 27 | | |
| Ditto | 1818, | 8 00 | | |
| Ditto | 1819, | 77,439 06 | | |
| Ditto | 1820, | 1,130 89 | —— | 78,611 22 |
| For taxes on law process, deeds, seals and other public documents, viz. | | | | |
| Clerks of Courts, | | 12,653 03 | | |
| Register of the land office, | | 730 09 | | |
| Secretary of state, | | 86 45 | —— | 13,469 56 |
| Fines, | | | | 105 |
| Miscellaneous receipts, | | | | 23 86 |
| From the agent of the penitentiary, | | | | 25,818 |
| For dividends on the state's stock in the Bank of Kentucky, viz. | | | | |
| For the six months ending on the 1st of January, 1821, | | 20,177 33 | | |
| Ditto on the 1st of July, 1821, | | 17,901 00 | —— | 38,078 33 |
| For tax on stock owned by individuals in the Bank of Kentucky, | | | | 7,897 87 |
| For tax on non residents' lands, | | | | 3,105 74 |
| For purchasers of non-residents' lands, | | | | 1,318 40 |
| For the bank stock fund, to-wit: | | | | |
| Lands granted under the acts of 1795, 1797 and 1800, known by the appellation of head-rights, | | 2,924 40 | | |
| Ditto under the acts of 1815 & '20, | | 10,605 43 | | |
| Ditto Tellico, | | 21 00 | | |
| Ditto granted under the act for encouraging the manufacture of salt, | | 673 40 | —— | 14,224 23 |
| Total amount received, | | | | $182,652 21 |
| Balance to the debit of the treasurer on the 10th day of October, 1820, | | | | 70,690 32 |
| Grand total, | | | | $253,342 53 |

| | |
|---|---|
| Amount brought forward, | 253,342 53 |
| PAID. | |
| Warrants reported by the treasurer to have been paid, to the 10th day of Oct. 1821, | 179,531 75 |
| Balance to the debit of the treasurer on the 10th day of October, 1821, | 73,810 78 |

No. 2.

*A statement of warrants drawn by the Auditor on the Treasurer during twelve months, ending on and including the 10th day of October, 1821—shewing the amount drawn for each source of expenditure, the amount of warrants paid and unpaid in the same period, viz.*

| | |
|---|---|
| Band stock fund, | $ 2,826 10 |
| Commissioners of navigation, | 60 86 |
| Dividends on bank stock, (for error in the president's report,) | 60 75 |
| Tax on bank stock, (agreeably to an act of assembly passed Oct. ses. 1820, to refund tax for 1819, paid by independent banks,) | 1,961 02 |
| Loans to the Penitentiary, | 22,189 12 |
| Public roads, | 80 00 |
| Sergeant of the court of appeals, | 250 75 |
| Drawbacks on vacant lands, | 16 66 |
| Pensioners, | 30 00 |
| Slaves executed, | 2,110 00 |
| State boundary line, (see act of assembly of 1819, page 924,) | 500 00 |
| Money refunded for taxes twice paid, &c. | 186 63 |
| For the salaries of the executive and judiciary departments, | 29,879 94 |
| Attornies for the year 1819, | 703 25 |
| Public communications, | 831 40 |
| Purchasers of non-resident lands, | 1,259 45 |
| Military expenditures, | 497 82 |
| Surveyors (including the amount paid for surveying the lands west of the Tennessee river, and to surveyors for transcribing and filing entries in the land office,) | 5,785 05 |
| Sheriffs for revenue of 1819, | 77 02 |
| | 79,255 82 |

| | | |
|---|---|---|
| Amount brought forward, | 79,255 | 82 |
| Contingent expences, including the costs of distributing the acts and journals of the last session of the legislature; also, the costs for transcribing certain records of Fayette county, agreeably to an act of assembly for said purpose, passed January, 1818, and appropriation bill, 1819, | 2,885 | 77 |
| Government House, | 2,000 | |
| Appropriations October session, 1820, including the compensation of the several officers of the legislature, public printing, fuel and all other expences enumerated in the bill, except the compensation of the speakers to each house, | 8,617 | 32 |
| Sheriffs comparing polls, | 856 | 02 |
| Legislature, October session, 1820, including the daily attendance and mileage of the members, and compensation to witnesses attending committees, | 22,038 | 79 |
| Commissioners of tax, | 7,138 | 25 |
| Electors, | 170 | 72 |
| Bank of the Commonwealth of Kentucky, (see act of assembly, Oct. session, 1820,) | 7,000 | |
| Executive offices, for fuel, stationary &c. | 2,606 | 41 |
| Lunatics, | 14,177 | 76 |
| Criminal prosecutions, | 11,885 | 95 |
| Attornies, | 6,647 | 67 |
| Jailers, for attending on circuit courts, dieting criminals, &c. | 6,316 | 16 |
| Littell's laws of Kentucky, | 90 | |
| Clerks' services, including exofficio services, copying commissioners' books, books and presses for the use of their offices, | 7,850 | 42 |
| Total amount, | $179,537 | 06 |
| Warrants unpaid that issued, in 1794, | 9 | 61 |
| Also, warrants unpaid on the 10th of Oct. 1820, that issued since the 10th of November, 1809, all others issued anterior to the last mentioned date, (except the above that issued in 1794) are presumed to have been paid, | 247 | 15 |
| | $179,793 | 82 |

E.

| | | |
|---|---|---|
| Warrants reported by the treasurer to have been paid on the 10th of October, 1821, (see statement No. 1,) | 179,531 | 75 |
| Warrants unpaid the 10th October 1821, | $262 | 07 |

No. 3.

*A statement of balances due to government on the 10th of October, 1821, viz.*

| | | | |
|---|---|---|---|
| Of the Revenue collectable by sheriffs, there is due for the year | 1793, | 104 | 06 |
| Ditto | 1794, | 138 | 61 |
| Ditto | 1796, | 1,845 | 36 |
| Ditto | 1798, | 101 | 36 |
| Ditto | 1799, | 217 | 25 |
| Ditto | 1800, | 172 | 26 |
| Ditto | 1802, | 31 | 99 |
| Ditto | 1803, | 1,662 | 21 |
| Ditto | 1806, | 613 | 26 |
| Ditto | 1807, | 279 | 43 |
| Ditto | 1809, | 48 | 58 |
| Ditto | 1811, | 52 | 44 |
| Ditto | 1815, | 10 | 26 |
| Ditto | 1817, | 2,385 | 94 |
| Ditto | 1818, | 802 | 64 |
| Ditto | 1819, | 4,093 | 58 |
| Debts receivable, | | 7,127 | 84 |
| Commissioners of navigation, | | 1 | 82 |
| Tax on independent banks for tax of 1818, | | 1,105 | 06 |
| Penitentiary for loans, | | 18,327 | 92 |
| Clerks for taxes, | | 2,972 | 23 |
| Total debts due, | | $42,094 | 10 |

No. 4.

*A statement of balances due from the government on the 10th of Oct. 1821, and of which the amount in the treasury on the same day is, under the existing laws, subject to the payment, viz.*

| | | |
|---|---|---|
| Sheriffs of 1813, for amount overpaid, | $69 | 02 |
| Ditto 1814, ditto, | 20 | |
| Bank stock fund, | 2,261 | 11 |
| Attornies for 1819, | 138 | 55 |
| | 2,488 | 68 |

| | |
|---|---|
| Amount brought forward, | 2,488 68 |
| Purchasers of non-residents' lands, | 400 74 |
| Warrants unpaid, | 262 07 |
| Salaries, | 2,755 06 |
| Attornies, | 806 57 |
| Total amount of debts due, | $6,713 06 |

No. 5.

*A statement shewing the probable amount of expenditures of the government for the year to end on the 10th day of October, 1822, viz.*

| | |
|---|---|
| For the annual salaries of the officers of the executive department, | 8,100 |
| For the salaries of the judiciary, attorney general and district attornies, | 25,700 |
| Exofficio services of clerks' copying lists of taxable property, books, presses, &c. | 8,000 |
| Legislature, October session, 1821, including the pay of members and officers, fuel, stationary and witnesses attending committees, | 32,000 |
| The sergeant of the court of appeals, for attending on said court and general court, | 900 |
| Military expenditures, | 600 |
| Postage, | 1,200 |
| Pensioners, | 90 |
| Sheriffs' comparing polls, | 800 |
| Criminal prosecutions, | 13,000 |
| The execution of slaves, | 3,000 |
| For the support of lunatics, | 15,000 |
| Printing and binding the acts and journals of October session, 1821, | 3,000 |
| Jailers' attending circuit courts, dieting criminals, &c. | 6,500 |
| Commissioners of revenue tax, | 7,500 |
| Contingent expences, | 3,000 |
| Fuel, stationary, &c. for public offices, | 2,600 |
| Surveyors for copying entry books, in compliance with the act of December session, 1819, | 1,200 |
| For running and marking boundary line between this state and state of Tennessee, | 1,500 |
| Monies to be refunded for taxes twice paid, &c. | 500 |
| Total amount, | 134,190 |

No. 6.

*A statement of the amount of moneys which is expected will be paid to the treasurer in the year to end on the 10th of October, 1822 subject to the expences of government, viz.*

| | | |
|---|---|---|
| The gross amount of revenue colectable by sheriffs for the year, 1820, and payable on the 1st Monday in December next, is, | 88,372 99 | |
| The average loss on the collection of revenue by sheriffs, including commission for collecting, insolvents, and sums paid by sheriffs under the act giving compensation for killing wolves, it is presumed will be 20 per cent, amounting to | 17,674 75 | 70,698 24 |
| Of which said revenue was paid previous to the 10th of October, 1821, | 1,130 89 | |
| There are annually delinquencies on the part of sheriffs, from one to six thousand dollars—it is supposed it will amount in the ensuing year to | 2,000 00 | 3,130 89 |
| Which will leave a sum that may be expected with some certainty to be paid in the ensuing year, of | | 67,567 35 |
| From clerks, for tax on law process, deeds, seals, &c. | | 10,000 |
| The register of the land office, | | 700 |
| Secretary of state. | | 50 |
| From non residents, for tax on lands, | | 3,000 |
| The Bank of Kentucky, for the tax on stock owned by individuals, | | 7,500 |
| The Bank of Kentucky, for the dividends on 596,700 dollars stock owned by the state in said institution for the ensuing year, at 6 per cent. | | 35,800 |
| Of the balances stated to be due the government as in statement No. 3, there will be collected on account of the revenue due from sheriffs, | | 6,800 |
| Of the balances due from clerks, there will be collected, | | 1,300 |
| Of the other balances due, no part is expected to be collected. | | |
| Amounting in the whole to | | 132,717 85 |

| | | |
|---|---|---|
| Amount brought forward, | | 132,717 35 |
| To which add the balance in the treasury on the 10th of October, 1821, | | 73,810 78 |
| | | 206,528 13 |
| From which deduct for balance due from government on the 10th of October, 1821, as per statement No. 4, | 6,713 06 | |
| Also the amount of statement No. 5, | 134,190 00 | 140,903 06 |
| The probable balance which is expected to be in the treasury on the 10th day of Oct. 1822, | | 65,625 07 |

No. 7.

*A statement of the situation of the Penitentiary.*

MANUFACTURES

From the 1st of October, 1820, to the 1st of October, 1821, the agent's receipts to the keeper are for

| | | |
|---|---|---|
| Blacksmiths' work, | 2,275 01 | |
| Shoes, | 5,082 55 | |
| Cut nails, | 5,257 35 | |
| Head nails, | 200 42 | |
| Chairs, | 546 04 | |
| Stone work, | 1,224 54 | |
| Brushes, | 81 87 | |
| Total amount of agent's receipts, | | 14,667 78 |
| The keeper consumed in the manufacturing of the above articles, raw materials to the amount of | | 8,493 51 |
| Gross profit of articles manufactured, | | 6,174 27 |

The expences of the institution in the same period are,

| | | |
|---|---|---|
| For diet, | 2,916 27 | |
| Clothing, | 382 23 | |
| Fuel, | 195 11 | |
| Guards, | 1,200 | |
| Contingencies, | 3,894 48 | |
| The agent's and keeper's salaries, commissions, and the pay of an assistant keeper, | 2,903 39 | 11,491 48 |
| Gross profit of manufactured articles as above, | | 6,174 27 |
| Leaving a balance against the institution of | | 5,317 21 |

THE KEEPER.

| | | |
|---|---|---|
| There was due to him on the first day of October, 1820, | 1,672 83 | |
| He has expended from that period to the 30th of September, 1821, as enumerated in the manufacturing account, | 8,588 09 | |
| In the same period for raw materials, | 8,325 63 | |
| Total, | | 18,586 55 |
| He has received from the treasury in the same period, | | 17,633 53 |
| Due the keeper first October, 1821, | | 953 02 |

LOANS.

| | | |
|---|---|---|
| There was due to government for loans, on the first day of October, 1820, | 20,876 05 | |
| From the first of October, 1820, to the 30th of September, 1821, warrants were drawn on the treasurer for the purpose of purchasing raw materials, to the amount as stated above, | 17,633 53 | |
| Also, for the payment in part of the compensation due to the agent and keeper, | 3,078 42 | |
| Total, | | 41,588 |
| Paid by the agent to the treasurer in the year ending 30th September, 1821, | | |
| For debts, | 19,677 70 | |
| Sales, | 4,616 33 | |
| Costs, | 655 85 | |
| Interest, | 471 12 | 25,421 |
| Due to the government on the first day of October, 1821, | | 16,167 00 |

RAW MATERIALS

| | | |
|---|---|---|
| On hand the first of Oct. 1820, | 3,108 63 | |
| Purchased in the year ending 1st of October, 1821, | 8,325 63 | |
| Total amount of raw materials, | | 11,434 26 |

| | | |
|---|---|---|
| Consumed in the manufactures in the same period, | | 8,493 51 |
| On hand, | | 2,940 75 |

SALES.

| | | |
|---|---|---|
| Sold in the year ending 30th September 1821, on a credit, | 13,242 55 | |
| For cash, | 4,616 33 | |
| Total sales, | | 17,858 88 |

THE AGENT.

| | | |
|---|---|---|
| There was in his hands on the 1st of October, 1820, debts and manufactured articles to the amount of | 61,418 47 | |
| From that period to the 1st of October, 1821, he has been charged with manufactured articles to the amount of | 14,667 78 | |
| With costs received, | 655 85 | |
| Interest do. | 471 12 | |
| Total charged, | | 77,213 22 |
| In the same period he has been credited, | | |
| By costs paid, | 617 73 | |
| Discounts made on sales, &c. | 1,768 33 | |
| Moneys paid into the treasury, | 25,421 00 | 27,807 06 |
| Balance in the hands of the agent on 1st of October, 1821, | | 49,406 16 |

The general account of the institution was on the 1st of October, 1821—

CREDITS.

| | | |
|---|---|---|
| By effects in the hands of the agent, | 49,406 16 | |
| Raw materials on hand, | 2,940 75 | 52,346 91 |

DEBTS.

| | | |
|---|---|---|
| Loans due to the state, | 16,167 | |
| Due to the keeper, | 953 02 | |
| Due for a debt contracted by the keeper, | 9,000 | |
| Due to the agent and keeper for compensation, | 867 90 | 26,987 92 |
| Nominal value of said institution on the 1st of October, 1821, | | 25,358 99 |

I cannot close this communication without suggesting to the legislature, that from the want of an official channel of communication between this office and the Bank of the Commonwealth of Kentucky, my report has been confined to those branches of the revenue, that had existed anterior to the last session of the legislature, and of course will be inadequate to represent the real situation of the fiscal concerns of the government.

It would seem, from the 5th section of the act incorporating the Bank of the Commonwealth of Kentucky, that the legislature intended that the dividends arising from the state's stock in the Bank of Kentucky, not otherwise appropriated, should be immediately set apart as composing one item of the stock in the first mentioned institution, which is pledged for the redemption of their paper, and no doubt will be done immediately that the legislature will point out the time and mode of doing it. It will be further seen, from the 24th section of the above recited act, that the interest arising from the loans and discounts made by the Bank of the Commonwealth, after the payment of all the necessary expences of the said institution, is to form a part of the revenue of the state, subject to the disposition of the legislature. It therefore remains with the legislature to point out the proper method whereby this office can be supplied with the necessary information in relation to all the finances of the government.

All of which, are respectfully submitted to the house of representatives.

PORTER CLAY, Aud.

*Auditor's Office*, 17*th Oct.* 1821.

*Ordered*, That the said report be laid on the table.

A message from the senate by Mr. Jones:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to authorize the appointment of an additional number of constables in certain counties; in which bill they request the concurrence of this house.

And then he withdrew.

The speaker laid before the house a letter from the president of the Bank of Kentucky, covering a list of the stockholders who have given notice of their intention to withdraw their stock, and the number of shares owned by each, which was read in the following words, viz.

BANK OF KENTUCKY, October 17th, 1821.

*My dear Sir:*

IN conformity to the 14th section of the act to amend and extend the charter of the Bank of Kentucky, approved 26th December 1820, I herewith enclose a list of the names of those stockholders, who have notifyed, in the manner prescribed, an intention of withdrawing their stock, at the expiration of the old charter, together with a list of the number of shares held by them respectively.

I am, dear sir, very respectfully,

J. HARVIE, *Pres't.*

*The honorable Speaker of the House of Representatives.*

A list of the stockholders who have notified the Bank of Kentucky of their wish to withdraw their stock, under the act to amend and extend the charter of the Bank of Kentucky, approved December 26, 1820.

| *Date of notice.* | *No. shares.* | *Persons withdrawing.* |
|---|---|---|
| 1821—March 13 | 24 | Benjamin Edwards. |
| 1820—Dec'r. 27 | 20 | Tho. C. Howard, ex'r. of S. Johnson. |
| 1821—Jan'y. 15 | 2 | George Finley. |
| March 19 | 20 | Humphrey Jones. |
| 15 | 36 | Curtis Field. |
| | 10 | Field and Burkram. |
| | 33 | Thompson Burnham & Co. |
| | 10 | Thompson Burnam. |
| 9 | 10 | Edward Morris. |
| 10 | 20 | F. C. Sharp. |
| | 25 | John D. Patton. |
| | 20 | Sharp and Miller. |
| | 85 | D. S. Patton. |
| | 25 | Maxwell Sharp. |
| April 4 | 6 | Russell Lewis. |
| | 4 | John Barret. |
| 5 | 5 | Martin Kelly. |
| March 19 | 20 | Wm. H. Booth. |
| April 5 | 5 | Wm. D. Barret. |
| | 10 | Samuel Poston. |
| | 14 | Robert Scobee. |
| | 10 | Stephen Scobee. |
| | 1 | Kitty Scobee. |
| | 1 | John Gardner. |
| | 16 | William Poston. |
| | 4 | George Martin. |
| | 1 | John Strode, sen. |

F.

| *Date of notice.* | *No. shares.* | *Persons withdrawing.* |
|---|---|---|
| 1820—Dec'r. 12 | 1 | John Gibbs. |
| | 4 | David Brandenburg. |
| 1821—April 12 | 25 | Jeremiah Clemens. |
| 10 | 55 | Barnabas Hughes, |
| 12 | 15 | Richard Ship. |
| 16 | 18 | James Ward. |
| 19 | 40 | Henry Miles. |
| 16 | 27 | Green Clay. |
| 12 | 5 | John Glover. |
| 21 | 8 | Samuel Taylor's administrators. |
| 1820—Dec'r. 22 | 45 | John Lancaster. |
| 1821—April 15 | 10 | Francis Wells. |
| 18 | 22 | Anthony W. Rollins. |
| 19 | 35 | John Duncan. |
| 20 | 15 | E. B. Edwards. |
| | 10 | Nathan Lipscomb. |
| | 7 | William Black. |
| 21 | 2 | Richard Oldham. |
| 23 | 15 | Isaac Cunningham. |
| | 20 | Abraham Inskeep. |
| | 43 | Daniel Tebbs, guardian for the heirs of Samuel Tebbs. |
| | 10 | Daniel Tebbs, trustee for S. G. Tebbs. |
| | 5 | Overton Harris. |
| | 67 | James Estill. |
| 24 | 5 | Wallis Estill. |
| | 50 | Robert Rodes' executors. |
| | 5 | Thomas Scott. |
| | 9 | A. Hanks. |
| 27 | 10 | J. R. Thornton. |
| | 18 | Ben. Mills. |
| 24 | 42 | William P. Fleming. |
| | 10 | Tho. W. and W. P. Fleming. |
| | 5 | George Glass. |
| 30 | 5 | Abner Oldham. |
| 28 | 20 | D. M. Hickman. |
| 30 | 5 | Sally Jones. |
| | 5 | Jos. Berry and Jane C. Berry. |
| | 110 | Presley Talbott. |
| 25 | 5 | Absalom M. Sharp. |
| | 20 | James Crutcher. |
| | 28 | Durret White. |
| | 40 | William Atharp. |
| | 1333 | Total shares. |

On the 24th May 1821, James Armstrong filed a notice of his wish to withdraw ten shares; and on the 30th day of June 1821, John U. Waring also filed a notice of his wish to withdraw two shares.

*Ordered*, That the said letter and report be laid on the table.

The following bills were reported from committees appointed to prepare and bring in the same, viz.

By Mr Alexander—1. A bill declaring part of Floyd's fork navigable.

And by Mr. Wickliffe—2. A bill to amend an act entitled, an act more effectually to suppress the practice of dueling.

Which bills were severally received and read the first time and ordered to be read a second time.

Leave was given to bring in the following bills:

On the motion of Mr. Yantis—1. A bill to amend the act authorizing a turnpike by the way of Williamsburg in Whitley county.

On the motion of Mr. Smith—2. A bill for the benefit of Elijah Logan.

On the motion of Mr. Howard—3. A bill authorizing the county court of Madison to appoint a constable between the waters of Muddy creek and Drowning creek, bordering upon the Kentucky river.

On the motion of Mr. Payne—4. A bill for the benefit of Paul Durrett, of Montgomery county.

On the motion of Mr. Yancey—5. A bill to authorize the insertion of advertisements in the Glasgow Chronicle, printed in Glasgow.

On the motion of Mr. Wiley—6. A bill to alter the mode of taking in lists of taxable property.

And on the motion of Mr. Worthington—7. A bill to amend the militia law.

The yeas and nays being required upon granting leave to bring in the sixth bill, by messrs. Yancey and A. Butler, were as follows viz.

Yeas—Mr. Speaker, messrs. Brooking, Bruce, Buford, Catlett, Clarke, Cockerill, Cogswell, Cooper, Cravens, Dejarnett, Inglish, Fletcher, Gaither, Goode, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Kincheloe, King, Litton, Logan, Lynch, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Mullens, Munford, Noland, Payne, Pear-

cy. Rudd, Sandford, Selby, Shannon, Slack, Slaughter, Stone of Madison, Stone of Wayne, Talbott, J. Taylor, Thompson, Warfield, Wiley, Witherspoon, Worthington and Yancey—55.

Nays—Messrs. Alexander, Allen, J. S. Anderson, Barnett, Bradford, A. Butler, W. O. Butler, Calhoun, Cosby, Cowan, Crawford, Davis, Desha, Eaves, M. Hardin, Hughes, Jackman, Johnson, Lecompt, Lockett, Love, Luckett, B. Mason, Miller, Moore, Murray, Patterson, Pendleton, Pope, Smith, Speed, Stratton, B. Taylor, C. H. Taylor, Todd, White, Yantis and Younger—38.

Messrs. Yantis, Litton and Love, were appointed a committee to prepare and bring in the first; messrs. Smith, Barnett and Cooper, the second; messrs. Howard, Stone of Madison, Dejarnett & Cowan, the third; messrs. Payne, J. Mason and Slack, the fourth; messrs. Yancey, J. G. Hardin and Cravens, the fifth; messrs. Wiley, Warfield, Worthington and Yancey, the sixth; and messrs. Worthington, Smith, Davis, Love, Cogswell, M. Hardin, Yantis, Younger and Talbot, the seventh.

Mr. Pope read and laid on the table the following resolutions, viz.

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That the Bank of Kentucky ought to receive real property at a reasonable price, in discharge of debts in all cases where the principal debtor has no other means of payment.

2. *Resolved*, That the Bank of Kentucky ought to give credit and currency to the paper of the Bank of the Commonwealth, by receiving it in payment of debts, and re-issuing it in moderate loans to the people.

3. *Resolved*, That the Bank of the Commonwealth ought, without delay, to lend the balance of the three millions authorised by the act establishing the said Bank; and to re-issue in loans to the people what may be received before the day of next.

4. *Resolved*, That the Commonwealth's Bank ought to continue moderate calls on its debtors; and that after the day of next, the paper of said Bank ought to be gradually diminished and cancelled, at the rate of per cent. per annum.

5. *Resolved*, That real estate within this Commonwealth, which may be sold before the first day of January, 1825, under or by virtue of any execution, ought to be redeemable by the debtor or his creditors at any time within

years after such sale, upon the payment of the price for which it may be sold, with an interest at the rate of per cent. per annum. unless the plaintiff in such execution shall before the sale, consent to receive the same at its value in payment. And that after the first day of January, 1825, real estate sold as aforesaid, ought to be redeemable within one year after the sale.

6. *Resolved*, That a committee be appointed to enquire what alterations or amendments ought to be made, in the laws authorizing imprisonment for debt; and whether it is expedient to abolish the same, except in cases of fraud.

7. *Resolved*, That the laws against usury ought to be revived.

8. *Resolved*, That the defendants in judgments founded on any note, bond, or written contract made after the day of next, by which the obligor or obligors, promise or agree in express terms to pay in specie, ought not to be allowed a replevin of more than three months; and such cases shall not be subject to the law requiring endorsements, that bank paper will be received in payment.

*Ordered*, That the public printers forthwith print 200 copies of said resolutions, for the use of the members of this house.

And then the house adjourned.

## THURSDAY, OCTOBER 18, 1821.

Mr. Richard C. Anderson, a member returned to serve in this house from the county of Jefferson, appeared, produced a certificate of his election, and of his having taken the oaths required by the constitution of the United States and the constitution and laws of this state, and took his seat.

The speaker laid before the house the memorial and petition of John Kenney of Bourbon county, containing sundry charges against Benjamin Mills, Esq. one of the judges of the court of appeals, and praying his removal from office, by address of two thirds of both houses of the general assembly, agreeably to the provisions of the constitution.

Which was received, read and referred to a select committee of messrs. Yantis, Warfield, Logan, B. Taylor, R. C. Anderson, A. Butler, Howard and Fletcher, giving said committee power to send for persons, papers and records, for their information.

The speaker laid before the house sundry depositions, &c. deposited on yesterday with the clerk, by the secretary of state, taken to be used as evidence before the committee to whom was referred, the petition of Michael W. Hall, contesting the right of Joseph G. Hardin, the member returned to serve in this house from the county of Barren and part of Monroe, to a seat therein.

Which was received and referred to the committee to whom was referred, the said petition.

The speaker laid before the house a letter from the treasurer of this commonwealth, covering a statement of the receipts of moneys into the treasury, and the expenditures of government for the last year, ending on the 10th instant, which was received and read as follows, viz.

TREASURER'S OFFICE, 17th October, 1821.

*Sir:*

YOU will please lay before the honorable house over which you preside, the enclosed statement, which gives a concise view of the situation of the treasury department, from the 11th day of October 1820, to the 10th day of October 1821, inclusive.

I have the honor to be, very respectfully,
Your obedient humble servant,
SAML. SOUTH, TR.

*Honorable George C. Thompson, Speaker of the House of Representatives.*

## A STATEMENT

*Of Moneys received and paid at the Treasury in the year* 1821, *commencing on the* 11*th day of October* 1820, *and ending on the* 10*th of October* 1821, *inclusive, together with the amount of Money in the Treasury on the* 10*th of October* 1820.

RECEIPTS.

| | | | | |
|---|---|---|---|---|
| For amount received on vacant lands, | 10,605 | 43 | | |
| Ditto head-right lands, | 2,924 | 40 | | |
| Ditto manufacturing salt, | 673 | 40 | | |
| Ditto Tellico lands, | 21 | 00 | 14,224 | 23 |
| Ditto Penitentiary. | | | 25,818 | 00 |
| Ditto Secretary of State. | | | 62 | 70 |
| Ditto register of the land-office, | | | 730 | 09 |
| Ditto miscellaneous receipts, | | | 23 | 86 |
| | | | 40,858 | 88 |

| | | |
|---|---|---|
| Amount brought forward, | | 40,858 88 |
| Ditto sheriffs, | | 78,611 22 |
| Ditto clerks, | | 12,676 77 |
| Ditto tax on bank stock, | | 7,897 87 |
| Dividends on bank stock of Kentucky, up to the 31st of January 1821, | 20.177 33 | |
| Ditto to the 1st of July 1821, | 17,901 00 | 38,078 33 |
| Money received on non-residents' lands, | | 4,424 14 |
| Ditto fines, | | 105 00 |
| Total amount received in 1821, | | $ 182,652 21 |
| To amount in the treasury on the 10th Oct. 1820, | | 70,690 32 |
| Total amount, | | $ 253,342 53 |

*This statement exhibits the amount of Money paid for Warrants drawn on the Treasury from the 11th of October 1820, to the 10th of October 1821, inclusive.*

| | |
|---|---|
| For amount subscribed and paid to the Commonwealth's Bank, as stock, | 12,800 00 |
| Drawback on vacant lands, | 7 40 |
| Penitentiary, for loans, &c. | 22,189 12 |
| Amount paid the President and Directors of the Commonwealth's Bank, to enable them to procure plates, &c. pursuant to the 28th section of its charter, | 7,000 00 |
| Government house, | 2,000 00 |
| Legislature, October session 1820, | 22,022 52 |
| Appropriation, | 8,740 61 |
| Littell's Laws of Kentucky, | 90 00 |
| Surveying state land south of Tennessee river, | 5,669 50 |
| Criminal prosecutions, | 12,415 12 |
| Support of lunatics, | 14,112 76 |
| Judiciary department, | 29,788 45 |
| Executive department, | 7,777 46 |
| Clerks of circuit and county courts, | 7,962 26 |
| Jailers do. do. | 6,279 91 |
| Sheriffs comparing polls, | 978 50 |
| Commissioners of taxable property, | 7,235 64 |
| Purchase of non-residents' lands, | 1,345 33 |
| Contingent expences, | 262 81 |
| Executive offices, | 2,381 28 |
| Military expences, | 837 80 |
| | 171,866 47 |

| | |
|---|---|
| Amount brought forward, | 171,866 47 |
| Copying certain surveys, | 1,205 51 |
| Distributing acts of assembly, | 1,018 10 |
| Negroes executed, | 2,090 00 |
| Postage on letters, | 831 40 |
| Sergeant court of appeals, | 231 00 |
| Tax on bank stock, | 2,084 60 |
| Pensioners, | 30 00 |
| Money refunded, | 174 67 |
| Total amount, | $ 179,531 75 |
| Aggregate amount of receipts, including money in the treasury on the 10th of Oct. 1820, | 253,342 53 |
| Amount paid, same time, | 179,531 75 |
| Cash in the treasury on the 10th of Oct. 1821, | $ 73,810 78 |

Paid over to the Commonwealth's Bank, pursuant to the 35th section of its charter, all the moneys in the treasury not otherwise appropriated, amounting to sixty-one thousand dollars; also, twelve thousand eight hundred dollars subscribed as stock to said institution, pursuant to the 5th section of said charter; also, seven thousand dollars paid to the President and Directors, to enable them to procure plates, &c. pursuant to the 28th section; making in the total, eighty thousand eight hundred dollars.

There has been quietus issued from this office, pursuant to the certificates filed, issued from the auditor's office agreeable to the act of the general assembly, approved the 21st of December 1820, in favor of poor widows, two thousand six hundred acres of land.

The foregoing statement is respectfully submitted to the house of representatives.

SAML. SOUTH, Tr.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Love—1. A bill to amend an act, entitled an act to establish a turnpike by the way of Williamsburg, Whitley county.

By Mr. Yancey—2. A bill to authorize the editors of the Glasgow Chronicle, to insert in their paper certain advertisements.

And by Mr. Payne—3. A bill for the benefit of Paul Durrett, of Montgomery county.

Which bills were severally received and read the first time and ordered to be read a second time.

Mr. Davis presented the petition of sundry citizens of Fayette county, praying that a law may pass, to authorize the raising and officering a troop of cavalry in the 8th regiment of Kentucky militia, in said county.

Which was received, read and referred to the committee appointed to prepare and bring in a bill to amend the militia law.

Mr. Shannon moved the following resolutions:

*Resolved*, That the committee on so much of the governor's message as relates to the Bank of the Commonwealth of Ky. and the sale of the lands south west of the Tennessee river, be instructed to enquire whether the said lands have been duly surveyed, laid off and marked upon the ground, as reported by the surveyor appointed in conformity to the act approved the 14th February, 1820, entitled "an act to provide for laying off the lands west of the Tennessee river, into townships and sections."

2. *Resolved*, That said committee be further instructed to enquire, whether the military claims on said lands have been executed and returned to the register's office, pursuant to an act approved Dec. 26th, 1820, entitled an act for surveying the military claims west of the Tennessee river; and do report on said several subjects to this house.

Which being severally twice read, were adopted.

*Ordered*, That messrs. Shannon and R. C. Anderson be added to the committee to whom was referred, so much of the governor's message as relates to the Bank of the Commonwealth of Kentucky, and the sale of the vacant lands south west of the Tennessee river.

Leave was given to bring in the following bills:

On the motion of Mr. Noland—1. A bill declaring the north fork of Kentucky river a navigable stream.

On the motion of Mr. Howard—2. A bill to repeal in part the act for classing tobacco, approved Dec. 3, 1820.

On the motion of Mr. Wickliffe—3. A bill to alter the mode of summoning petit juries.

On the motion of Mr. Murray—4. A bill to alter the mode of admitting persons to bail under writs of habeas corpus.

On the motion of Mr. Alexander—5. A bill to amend an act entitled an act locating the branch banks of the bank of the Commonwealth of Kentucky.

On the motion of Mr. Luckett—6. A bill for the benefit of mechanics.

On the motion of Mr. H. M'Elroy—7. A bill further to regulate the payment of the debt due the commonwealth for the sale of vacant lands.

On the motion of Mr. Cosby—8. A bill giving the judge of the thirteenth judicial district, further time to move into and reside in said district.

On the motion of Mr. Pearcy—9. A bill to amend the execution law.

On the motion of Mr. Smith—10. A bill to declare Rockcastle river navigable from its junction with Cumberland river, up to where the Madison road crosses the same, and for other purposes.

On the motion of Mr. M'Millan—11. A bill to amend the penal laws.

On the motion of Mr. Cockerill—12. A bill to repeal in part, an act entitled an act to regulate taverns and restrain tipling houses, approved January 15th, 1820.

And on the motion of Mr. Catlett—13. A bill to declare Tygert's creek a navigable stream from its junction with the Ohio to the mouth of the Buffaloe fork.

Messrs. Noland, Dejarnett, Love, M'Millan and Litton, were appointed a committee to prepare and bring in the first; messrs. Howard, M'Millan Cowan, Dejarnett, Green, C. H. Taylor, Brooking, Yantis and Bruce, the second; messrs. Wickliffe, M'Millan, Todd, Calhoun and Cravens, the third; messrs. Murray, Wickliffe, Howard and Davis, the fourth; messrs. Alexander, Wickliffe, Lecompte, Gaither and Cravens, the fifth; messrs. Luckett, White, Shannon, Worthington, Payne and Todd, the sixth; messrs. H. M'Elroy, J. S. Anderson, Yancey, Thompson, A. Butler and Gordon, the seventh; messrs. Cosby, Wickliffe, S. M'Elroy and M. Hardin, the eighth; messrs. Pearcy, Logan, Catlett, Patterson and Speed, the ninth; messrs. Smith, Yantis, Barnett and Moore, the tenth; messrs. M'Millan, Murray, C. H. Taylor, Shannon and Stratton, the eleventh; messrs. Cockerill, M'Clanahan, Calhoun, May and Lynch, the twelfth; and messrs. Catlett, Fletcher and Wiley, the thirteenth.

Mr. Warfield moved the following resolution, viz.

*Resolved*, That the committee appointed to report upon that part of the governor's message relating to the Bank of the Commonwealth, be instructed to enquire into the expediency of changing the locations of the bank or branches of said bank, or either of them; and report to this house

the propriety of establishing a branch of said bank within the 18th judicial district.

Which being twice read was disagreed to.

A bill from the senate entitled, an act to authorize the appointment of an additional number of constables in certain counties, was read the first time and ordered to be read a second time.

The following bills were severally read a second time, viz.—1. A bill declaring part of Floyd's fork navigable; and 2. a bill to amend an act entitled, an act more effectually to suppress the practice of duelling.

The former was ordered to be engrossed and read a third time to-morrow; and the latter was committed to a committee of the whole house on the state of the commonwealth, for to-morrow.

And then the house adjourned.

## FRIDAY, OCTOBER 19, 1821.

Mr. Sandford presented the petition of sundry citizens of Campbell county, praying the removal of the seat of justice from the town of Newport to a more central position.

Mr. Bradford presented the petition of John Roswell, praying a divorce from his wife Polly, late Polly Houston.

Mr. Moore presented the petition of John G. Meaux, praying a divorce from his wife Jane, late Jane Anderson.

Mr. J. Taylor presented the petition of Abraham Vanattan, praying a divorce from his wife, Peggy Vanattan.

And Mr. Hardin presented the petition of sundry citizens of Barren county, praying that Barren river may be declared navigable as high up as Line creek, and that provision may be made for removing the obstructions to its navigation.

Which were severally received, read and referred; the first and fifth to the committee of propositions and grievances; and the second, third and fourth, to the committee of religion.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion, have according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to-wit:

*Resolved*, That the petition of Milly Cleavland, representing that her husband, William Cleavland, abandoned her two years ago last March, and is living in adultery with

another woman in the state of Louisiana, and praying for a divorce, *be rejected.*

*Resolved*, That the petition of William Means, representing that his wife, Mary Means, in November, 1819, abandoned him without any just cause, and is living in adultery with another man; and praying for a divorce, *be rejected.*

*Resolved*, That the petition of Esther Holder, representing that her husband Bradley Holder, abandoned her immediately after their marriage, has been gone about two years, and is living in adultery with another woman; and praying for a divorce, *is reasonable.*

*Resolved*, That the petition of Nancy Garth, representing that her late husband, Thomas Garth, whilst she lived with him, treated her in a harsh and cruel manner—so much so, that she could not live with him. She sued for a divorce; on the hearing her bill was dismissed, because the jury empannelled to find the facts, were of opinion the treatment was not so cruel and inhuman, as actually to endanger her life. Since which time, he has sued for and obtained a divorce, on the ground of her absence for the space of time required by law; and praying that the pains and penalties prescribed by the general law against the offending party, so far as it relates to her, be removed, *is reasonable.*

*Resolved*, That the petition of Margaret Stewart, representing that her husband, Stephen Stewart, treated her in a cruel and abusive manner, and in September, 1819, abandoned her, and is living in the state of adultery with another woman; and praying for a divorce, *is reasonable.*

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in bills pursuant to the 3d, 4th and 5th resolutions.

The following bills were reported from the committees appointed to prepare and bring in the same.

By Mr. Cosby—1. A bill giving the judge of the 13th judicial district further time to move into and reside in the same.

And by Mr. Alexander—2. A bill to amend an act entitled, an act locating the branch banks of the Commonwealth of Kentucky.

Which bills were severally received and read the first time and ordered to be read a second time.

On motion,

*Ordered*, That Mr. King be added to the committee to whom was referred, so much of the governor's message as relates to the boundary line between this state and the state

of Tennessee; and that Mr. Todd be added to the committee to whom was referred, the memorial of John Kenney, preferring charges against Benjamin Mills, Esq. one of the judges of the court of appeals.

Leave was given to bring in the following bills, viz:

On the motion of Mr. Allen—1. A bill to amend in part the several acts regulating sheriffs' and constables' fees in this commonwealth.

On the motion of Mr. Alexander—2. A bill to amend an act entitled, an act working on public roads in this commonwealth.

On the motion of Mr. Cosby—3. A bill to authorize the citizens of Springfield to elect trustees for said town.

On the motion of Mr. Crawford—4. A bill entitled entled, an act to amend the law concerning proceedings in civil cases.

On the motion of Mr. Lynch—5. A bill to alter and extend the August term of the Simpson circuit court.

Messrs. Allen, Lecompte, Bruce, Cogswell, Cravens and Jackman, were appointed a committee to prepare and bring in the first; messrs. Alexander, Wickliffe, Pope, R. C. Anderson, M'Millan and Talbot, the second; messrs. Cosby, Pope and S. M'Elroy, the third; messrs. Crawford, Wickliffe, Cosby and Eaves, the fourth; messrs. Lynch, Craig and Anderson, the fifth.

Mr. M'Millan moved for leave to bring in a bill authorizing the Bank of the Commonwealth of Kentucky to receive tobacco in discharge of part of the debts contracted with the bank or any of its branches.

It was then moved and seconded, to postpone the further consideration of said motion, until the first day of March next.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. M'Millan and Gordon, were as follows, viz.

Yeas—Mr. Speaker, messrs. Alexander, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Clarke, Cockerill, Cogswell, Cooper, Cosby, Cowan, Crawford, Davis, Dejarnett, Desha, Eaves, Fletcher, Gaither, Goode, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Hughes, Jackman, Inglish, Johnson, Kincheloe, King, Litton, Lockett, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'-

Cracken, Miller, Moore, Mullens, Munford, Murray, Noland, Patterson, Payne, Pendleton, Pope, Rudd, Sandford, Selby, Shannon, Slack, Slaughter, Speed, Stone of Madison, Stone of Wayne, Stratton, B. Taylor, J. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Worthington, Yancey and Yantis—84.

Nays—Messrs. Allen, Catlett, Craig, Cravens, Lecompt, M'Millan, Pearcy, Smith, Talbott, C. H. Taylor and Younger—11.

The house took up the resolutions laid on the table on the 17th inst. by Mr. Pope; which being read,

*Ordered*, That the said resolutions be committed to a committee of the whole house on the state of the commonwealth, for Friday next.

An engrossed bill entitled, an act declaring part of Floyd's fork navigable, was read a third time.

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Alexander carry the said bill to the senate and request their concurrence.

The following bills were severally read a second time: 1. a bill to amend an act entitled, an act to establish a turnpike by the way of Williamsburg, in Whitley county; 2. a bill to authorize the editors of the Glasgow Chronicle, to insert in their paper certain advertisements; 3. a bill for the benefit of Paul Durrett of Montgomery county.

The said bills (the second being amended at the clerk's table) were severally ordered to be engrossed and read a third time to-morrow.

A bill from the senate entitled an act to authorize the appointment of an additional number of constables in certain counties, was read a second time, and committed to a select committee of Messrs. Pearcy, Logan, Howard and Wickliffe.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house, on the state of the commonwealth, Mr. Logan in the chair; and after some time spent therein, the speaker resumed the chair, and Mr. Logan reported that the committee had according to order, had under consideration a bill to amend the act more effectually to suppress the practice of duelling, and gone through the same with sundry amendments, which he handed in at the clerk's table, and which being severally twice read, were concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time to-morrow.

And then the house adjourned.

## SATURDAY, OCTOBER 20, 1821.

A message from the senate by Mr. Lee, their secretary: *Mr. Speaker*,

The senate have adopted a resolution for the appointment of joint committees to examine the different offices, and a resolution appointing a joint committee to examine the Bank of Kentucky; and they have passed a bill entitled, an act allowing further time to the county court of Henry to make and return their lists of taxable property for the year, 1821; in which resolutions and bill, they request the concurrence of this house.

And then he withdrew.

Mr. Calhoun presented the petition of Richard C. Walker and Nathan Harris, of Ohio county, praying that a law may pass authorizing them to build a dam and erect mills on Rough creek in said county.

Mr. Slaughter presented the petition of sundry citizens of Warren county, praying that a part of said county may be added to the county of Barren.

And Mr. Cravens presented the petition of sundry citizens of Caldwell, Christian and Trigg counties, praying that a law may pass for the establishment and regulation of the town of New London, in Caldwell county, and for the appointment of trustees therein.

Which petitions were severally received, read and referred; the first and second to the committee of propositions and grievances; and the third, to a select committee of messrs. Cravens, Pendleton, M'Cracken and Thompson.

Mr. Smith presented the petition of Stephen T. Logan, representing that Joseph G. Hardin, the member returned to serve in this house from the county of Barren and part of Monroe, is, and was at the time of his election, ineligible to a seat therein, and praying that his seat may be vacated.

Which petition was received, read and referred to the committee of privileges and elections.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration the petition of sundry citizens of Campbell county, praying for the removal

of the seat of justice in said county, and have come to the following resolution thereupon, to-wit:

*Resolved*, That the said petition, *is reasonable.*

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration several petitions to them referred, and have come to the following resolutions thereupon, to-wit:

*Resolved*; That the petition of John Roswell, representing that his wife, Polly Roswell, was, at the time of their marriage, pregnant by another man, of which he was ignorant, and that she has been guilty of lewd intercourse with him since; and praying for a divorce, *be rejected.*

*Resolved*, That the petition of Fielding Alford, representing that his wife Sally has become an abandoned prostitute; and praying for a divorce, *be rejected.*

Which being twice read, the first resolution was concurred in, and the second recommitted to the committee of religion.

Mr. Pearcy from the committtee to whom was referred, a bill from the senate entitled, an act authorizing the appointment of an additional number of constables in certain counties, reported the same with amendments; which being severally twice read, were concurred in.

*Ordered*, That the said bill as amended, be read a third time.

And thereupon, the rule of the house, constitutional provision and third reading of the said bill being dispensed with, the same was laid on the table.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Murray—1. A bill to alter the mode of admitting persons to bail under writs of habeas corpus.

By Mr. Cosby—2. A bill to authorize the citizens of Springfield to elect trustees for said town.

By Mr. Lynch—3. A bill for the benefit of the widow and heirs of Isaac Howdyshelt, deceased: And 4. A bill to alter and extend the term of the Simpson circuit court.

And by Mr. H. M'Elroy—5. A bill further to regulate the payment of the debt due the commonwealth for the sale of vacant land.

Which bills were severally received and read the first time and the first, second, third and fifth, ordered to be read a second time, the fourth was laid on the table, and the rule of the house, constitutional provision and second reading of the second bill, being dispensed with, the said bill was ordered to be engrossed and read a third time on Monday next.

Mr. Logan from the select committee to whom was referred, the memorial of Michael W. Hall, contesting the election of Joseph G. Hardin, a member returned to serve in this house, made the following report, to-wit:

*Resolved*, That the petition of Michael W. Hall, contesting the election of Joseph G. Hardin, is not supported by legal and satisfactory testimony, and that the same be therefore *rejected*.

*Ordered*, That the said report be committed to a committee of the whole house for to-day.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Wickliffe in the chair, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wickliffe reported, that the committee had, according to order, had under consideration the report of the select committee on the contested election of Joseph G. Hardin, returned to serve in this house from the county of Barren and part of Monroe, and had gone through the same without amendment.

The said report was then concurred in.

Leave was given to bring in the following bills, viz.

On the motion of Mr. Davis—1. A bill levying a tax on specie.

On the motion of Mr. Miller—2. A bill to allow an additional number of justices of the peace in the county of Hardin.

On the motion of Mr. Lockett—3. A bill to authorise the sale of so much the of real estate of Henry Garrard, deceased, as may be sufficient to discharge a debt that is likely to come against said estate

And on the motion of Mr. Stone, of Wayne—4. A bill further to indulge the settlers on the lands acquired by the treaty of Tellico.

Messrs. Davis, R. C. Anderson, Shannon, Lockett, Witherspoon, J. Mason and Worthington, were appointed a committee to prepare and bring in the first; messrs. Miller, M. Hardin and Moore, the second; messrs. Lockett, Gor-

don and Calhoun, the third; and messrs. Stone, of Wayne, Love, Goode and Cooper, the fourth.

Mr. Slack moved for leave to bring in a bill to remove the branch of the Commonwealth's Bank, located at Flemingsburg in Fleming county, to Maysville in Mason county.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

A message from the senate by Mr. M'Afee:

*Mr. Speaker,*

The senate have passed a bill entitled, an act to amend the act entitled, an act to regulate endorsements on executions; in which they request the concurrence of this house.

And then he withdrew.

Engrossed bills of the following titles: 1. An act to amend an act entitled. an act to establish a turnpike by the way of Williamsburg, Whitley county; 2. an act to authorize the editors of the Glasgow Chronicle, to insert in their paper certain advertisements; 3. an act for the benefit of Paul Durrett of Montgomery county; and 4. an act to amend the law entitled, an act the more effectually to suppress the practice of duelling.

Were severally read a third time.

*Resolved*, That the said bills do pass, that the titles of the first and third be as aforesaid, that the second be amended to read, "an act to authorize the editors of certain newspapers, to insert in their papers certain advertisements," and that the fourth be amended to read, "an act to repeal in part, the law entitled, "an act the more effectually to suppress the practice of duelling.

The yeas and nays being required on the passage of the fourth bill by Messrs. Green and Catlett, were as follows, viz:

Yeas—Mr. Speaker, messrs. R. C. Anderson, Barnett, Bradford, Brooking, Bruce, Buford, W. O. Butler, Calhoun, Cogswell, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Griffith, J. G. Hardin, M. Hardin, Howard, Hughes, Jackman, Johnson, King, Litton, Lecompt, Lockett, Logan, Love, Luckett, B. Mason, May, M'Connell, M'Millan, Miller, Moore, Mullens, Murray, Noland, Payne, Pearcy, Pope, Rudd, Sandford, Shannon, Slack, Slaughter, Speed, Stratton, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Witherspoon, Worthington, Yance, Yantis and Younger—69

Nays—Messrs. Alexander, J. S. Anderson, Catlett, Cockerill, Cooper, Eaves, Gaither, Goode, Gordon, Green, Inglish, Kincheloe, Lynch, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Cracken, Munford, Patterson, Pendleton, Selby, Smith, Stone of Madison, Stone of Wayne, B. Taylor, J. Taylor, and Wiley—27.

*Ordered*, That Mr. Yancey carry the first, second and third, and Mr. Wickliffe the fourth bills to the senate, and request their concurrence.

A bill giving the judge of the thirteenth judicial district further time to remove into and reside in the same; and a bill to amend an act entitled, an act locating the branch banks of the Commonwealth of Kentucky;

Were severally read the second time; the former was ordered to be engrossed and read a third time, and the latter was laid on the table.

And thereupon, the rule of the house, constitutional provision and third reading of the former bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Cosby carry the said bill to the senate and request their concurrence.

Bills from the senate of the following titles, viz: An act allowing further time to the county court of Henry to make and return their lists of taxable property for the year 1821, and an act to amend the act entitled, an act to regulate endorsements on executions;

Were severally read the first time, and ordered to be read a second time.

Mr. Wickliffe moved the following resolution, viz:

*Resolved*, That a committee be raised to enquire into and report to this house, what progress has been made by the trustees of the town of Columbus, in laying off and selling the lots in said town, and what, if any, change be necessary to be made in the mode prescribed by law, for the sale of the said lots; and that said committee have leave to report by bill or otherwise.

Which being twice read was adopted, and messrs. Wickliffe, Yancey, Slaughter, Pope and Yantis, were appointed a committee conformably thereto.

Mr. Davis read and laid on the table the following resolutions, viz.

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That the secretary of state be directed to furnish,

upon the application of the chairman of the board of trustees to Transylvania University, copies of Littell's edition of the laws of Kentucky, of Hardin's, Bibb's and Marshall's reports, and that he furnish copies of the session acts and journals of both houses, from the first session of the legislature down to the present time, if practicable; and that in future, copies of the session acts and journals, be furnished said institution.

*Resolved*, That his excellency the governor of this state, be hereby requested to open a correspondence with the governors of the several states, for the purpose of procuring the statute laws of each state, for the benefit of the law department of Transylvania University.

The house took up a resolution from the senate for the appointment of joint committees to examine the different offices, which was twice read as follows, to wit:

IN SENATE, OCTOBER 19, 1821.

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That a joint committee of three from the senate and six from the house of representatives, be appointed to examine and report the state of the Treasurer's office: That four from the senate and eight from the house of representatives, be appointed to examine and report the state of the Register's office: That *five* from the senate and *ten* from the house of representatives, be appointed to examine and report the state of the Auditor's office: and that *six* from the senate and *twelve* from the house of representatives, be appointed to examine and report the state of the Penitentiary house.

Extract, &c. WILLIS A. LEE, C. S.

Which resolution being amended by striking out the words "*five*" and "*ten*," being the number of the committee to examine the Auditor's office, and inserting in lieu thereof, the words "*three*" and "*six*," and by striking out the words "*six*" and "*twelve*," being the number of the committee to examine the Penitentiary, and inserting in lieu thereof the words "*four*" and "*eight*," was concurred in.

*Ordered*, That Mr. Yantis inform the senate thereof and request their concurrence in the said amendments.

The speaker laid before the house a letter from John J. Crittenden, President of the Bank of the Commonwealth of Kentucky, enclosing a report of the proceedings, situation, &c. of said bank, which was read as follows, viz:

BANK OF THE COMMONWEALTH, OCT. 20, 1821.

*Sir*

As required by law, I herewith communicate to the honorable body over which you preside, a report of the proceedings, situation, &c. of the Bank of the Commonwealth of Kentucky.

The documents and tables which accompany this report, are so voluminous, and many of them so lately received, that it has been impracticable to have them copied. It is only necessary to apprize your honorable body of this fact, in order that such steps as are proper, may be taken for having them communicated to the senate.

I have the honor to be, with great respect,

Your Ob't Serv't,

JOHN J. CRITTENDEN, PRES'T,

*of the Bank of the Commonwealth of Kentucky.*

*The Hon. George C. Thompson. Speaker*
*of the House of Representatives.*

*To the members of the Senate and House of Representatives.*

THE President and Directors of the Bank of the Commonwealth of Kentucky, submit the following report of their proceedings and situation:

Anxious to fulfil the purposes of the legislature and the expectations of the country, as soon after the election of the directors as it was practicable, a board was formed, and measures adopted for organizing the bank and putting it into operation as speedily as possible. An agent, possessing the entire confidence of the directory, was immediately dispatched to Philadelphia, to procure the necessary paper, with instructions to employ the first artists, and to have the notes for this bank executed in the best and most peculiar style. This was a work which required more labor and time than had been anticipated. The directory is satisfied that their agent discharged all the duties assigned him with the utmost zeal and diligence; and if they were disappointed in not receiving the paper earlier, it was attributable to their own miscalculation of the time necessary for its preparation.

The first parcel of paper for this bank, consisting of about 700,000 dollars, was received here on the 10th day of April last. Other parcels have been successively forwarded, amounting in the whole to about the sum of 2,500,000 dollars; and there yet remains to be received, of the paper ordered and contracted for, the amount of 500,000 dollars.

According to the engagement of the artist who was employed, this parcel ought, some time ago, to have been received.

Since the arrival of the first parcel of paper, the officers of the bank have been industriously and zealously employed in preparing it for circulation; and the whole amount received for the branches, has been signed and distributed, with the exception of a small parcel of five dollar notes for the Louisville branch, which will be prepared and forwarded in a few days.

Exercising the discretion given by the 6th section of the supplementary law, the directory unanimously determined to issue notes to a larger amount than was authorised by the original act; and have accordingly proceeded to prepare and to put into circulation, as fast as it was practicable, all the paper received, amounting to about 2,500,000 dollars.

The directory is sensible of the high responsibility of the discretion confided to them in this particular. They have not, however, shrunk from the exercise of it; nor will they. But, as the general assembly is now in session, and is so much more competent to the exercise of such a discretion, it will be acceptable to the directory to receive from your honorable body, some further direction as to the half million of notes which yet remains to be received and is daily expected.

Various difficulties attending the organization of the bank and the apportionment of its paper, and the manner in which they were surmounted, will be seen by reference to the minutes of this board. But some of the rules provided for the organization and management of this institution, differ so materially from the usual course of banking, that it may be proper briefly to submit the reasons which led to their adoption.

The act incorporating the bank contemplates, in express terms, the extension of loans for longer periods than had been usual in other banking institutions. The only question with the directory was, as to the limit of this extension. In determining this point, there were two arguments which weighed upon their minds, influencing them in contrary directions: On one hand, the convenience of borrowers; and on the other, the safety of the bank. The convenience of the borrowers, most of whom would necessarily reside at a considerable distance, urged the extension of loans to the utmost limit allowed by the act of incorporation; but the uncertainty which, in the first moments of its oper-

ation, attended the credit of an institution established on principles somewhat novel, counselled them not to put it out of their power to counteract any sudden and unexpected depreciation of their paper, by prompt calls upon their debtors. As the safety of the bank was essential to the ultimate convenience and relief of the community, this consideration was deemed paramount to every other; and it was thought prudent, if not absolutely necessary, to limit the duration of loans on personal security to four months, and on real security to six.

The directory are happy to state, that the general currency and credit of their paper within the state, has hitherto precluded the necessity of extraordinary calls.

The most material deviation from the usual practice of banks, will be found in the regular system of calls at the rate of one per cent per month, which has been introduced by the directory of this institution. This measure was dictated by considerations of sound policy, justice to the community, the credit of the bank and the interest of the borrowers.

It is universally admitted, that numberless evils have arisen from the credit, unlimited in point of time as well as in amount, which has been extended to individuals in the various banking institutions, not only of this state, but of the whole federal Union. Our citizens have dealt on borrowed capital, as if it were their own, calculating only on the payment of discounts, apparently forgetting that the pay day of the principal would ever arrive, and so incorporating it with their business and private fortunes that its collection could not be enforced without serious inconvenience, if not actual oppression. But this is not the only evil. In many instances, by lapse of time and change of circumstances, the security has been so materially impaired, that a final recovery of the debts has been rendered difficult, if not impracticable. The wisdom of the legislature guarded with sufficient caution against the unlimited extension of credit in point of amount, but it was left to the directory to guard against the evils which might arise from a similar indulgence in point of time. To effect this object, so strenuously demanded by every consideration of sound policy, it appeared to them that there was no mode so effectual as a system of moderate calls, which should constantly remind their debtors that the borrowed capital was not their own, and at the same time, by gradual and almost imperceptible degrees, extinguish their debts.

It was anticipated, and has since been proved by experience, that but a small portion of the community, and even not all of the necessitous, could obtain accommodations at this bank. It requires no argument to prove the injustice of permitting one set of borrowers to monopolize indefinitely, to the exclusion of a majority of the people, the funds of an institution created for the common benefit. If advantages are derivable from bank accommodations, it is the duty of this bank, above all others, to distribute its favors as generally and as impartially as possible. But there is no mode by which this obvious duty can be effected, but by calling from one set of borrowers and lending to another; thus circulating the funds of the state, if not through every hand, at least through the hands of every man to whom misfortunes may render necessary the extension of public benevolence. This just and beneficent object, the directory have attempted to effect by a system of calls so gentle, that they cannot oppress the debtors of the bank, while they afford at every discount day a small sum to be loaned to needy applicants.

But the credit of the bank was not the least consideration which weighed upon the minds of the board in the adoption of this rule. It is a principle universally admitted, that the credit of a paper currency irredeemable in specie, depends entirely upon the profitable uses to which it can be applied by its holders. The directory foresaw that the great demand for their paper created by the collection of the debts which had been accumulating for several years, would be sufficient for a time to sustain its credit; but that this demand would rapidly diminish, and finally cease with the extinguishment of the debts which caused it. On the consummation of this process, which is already far advanced, they saw that the bank would be thrown almost entirely upon its own resources, and could rely on nothing to sustain the currency of its paper, but the limited means of redeeming it furnished by its own operations and the acts of the legislature. That these were entirely inadequate to support the credit and maintain the currency of two and a half or three millions of dollars, was indicated, not only by the plainest results of reasoning upon the present condition of our own country, but by the experience of other states and other times. Under these circumstances, it was thought important, by a system of regular calls, to create a new and constant demand for their paper, which, added to the demand already created by its reception in the payment of discounts and public dues, would be adequate, it was hoped, to sup-

port its credit and currency until the legislature should have time to provide more ample means for its redemption. Experience is daily making more apparent, the necessity of this measure as a means of supporting the credit of the bank.

It is believed, that the interest of the borrowers is materially promoted by this regulation. Nothing stimulates to industry and economy like the constant pressure of debt—not so violent as to baffle the exertions of the debtor, but yet so considerable as to keep him upon the alert. Ingenuity is stimulated to the invention of new methods for making money, and many a dollar which would otherwise be expended to little purpose, is carefully preserved to meet the incumbent pressure. Debts are thus extinguished and the citizen becomes rich by a sure but almost imperceptible process. Such, it is believed, will be the operation of the present system of calls upon every poor but industrious citizen who borrows money from this bank.

In addition to these considerations, the directory believed that in this instance they were promoting the policy of the legislature from which their powers were derived. To provide a mode by which debts could be extinguished without oppression to the citizen, was the chief object of their legislation. This was not to be effected by loans with indefinite credit; but by furnishing and supporting the credit of an abundant circulating medium for the common benefit, and by enabling the citizen, in many instances, to transfer his debt to the bank, and there pay it off in moderate instalments. Surely no instalment law would be required more gentle in its operations than one which allowed eight years for the payment of debts, in equal instalments, payable in four or six months. This, together with a support of the credit of the bank and an impartial distribution of its funds, which could be effected only by a system of calls, must have entered into the policy which gave existence to this institution.

So far as the directory have had an opportunity of witnessing the effect of the present system, it has been most salutary. The calls are paid with unexpected punctuality; the debtors to the bank are kept upon the alert, and their debts are slowly but regularly diminishing; many have voluntarily paid the whole, or a large portion of their debts; the funds of the bank are constantly changing from hand to hand; the currency of the state, without being diminished, is made to circulate more briskly; the bank is able still to relieve, without being under the necessity of oppressing;

industry and economy, all the energies of the people, are put in requisition to relieve the citizen from debt and the country from distress.

In dismissing this subject, this board will merely add, that a sister institution in Tennessee, apparently for the same reasons, has found it expedient to confine her loans to ninety days, and make a regular call of ten per cent. amounting to forty per cent. per annum.

At the principal bank, and it is believed at the branches generally, strict regard has been had to the provision of the act of assembly, which requires, that during the year, 1821, loans shall be made only for the purpose of paying the debts of the borrowers. In a few instances, by false representations, the directory has been induced to grant loans to individuals who had no rightful claim to the public benevolence. In these cases, it would have given pleasure to this board, if they had possessed the power to call in the full amount of the accommodations as soon as the notes became due.

One of the subjects which early attracted the attention of this board, was the relations which the Bank of the Commonwealth was to sustain with the Bank of Kentucky.—The latter institution being the greatest creditor in the community, had it in her power materially to affect the credit of the paper which was about to be emitted. It was the desire of this directory, that a general and reciprocal reception and exchange of paper, should be accorded to each other by the two institutions. At an early period, these sentiments were communicated to the President and Directors of the Bank of Kentucky. By the correspondence which ensued, this board became satisfied, that no arrangement mutually satisfactory, could be made between the two institutions, and the negotiation was discontinued. The proceedings of this board, as entered upon their minutes, and the correspondence between the two institutions, which is preserved in the archives, both of which, as matter of right, are subject to the inspection of the general assembly, will develope the manner in which this intercourse was carried on, and the reasons why no amicable arrangement could be ultimately effected.

On the failure of this negotiation, it remained for this board to pursue that policy towards the Bank of Kentucky, which should best support the honor and extend the usefulness of the institution which had been committed to their superintendance. The relief of the community was the

great object which they had to accomplish. In proportion as the credit of this bank could be sustained, in the same proportion could its issues be extended, and its paper kept in circulation. There was already in the community, enough of enmity and distrust to produce a serious effect upon the credit and currency of its paper. It was no part of the duties of this board, to add to this enmity or increase this distrust. The means by which they could loan and preserve the credit, of the largest possible sum, not exceeding three millions of dollars, were the sole considerations which regulated their conduct. If, by incurring the enmity of a single individual, they would have been disabled to give relief to one of their humblest fellow-citizens, it was their duty to avoid it. In discounts and payments of every description, the Bank of Kentucky is now receiving at the rate of nearly 600,000 dollars per annum. An institution whose receipts are so enormous, necessarily possesses great power over the credit of any species of paper, which may be thrown into circulation within the state of Kentucky. The Board believed, that the usefulness of this bank and the interest of the community, would be much more effectually promoted, by causing the power of the Bank of Kentucky to operate in supporting the credit of their paper, than in destroying it. In the former case, their issues could be extended; more of their fellow citizens could be relieved from distress; and the confidence of the community, in the stability and credit of this bank, would be firmly established. In the latter case, their issues must have been materially curtailed; many who have now been rescued from ruin, must have been left to their fate; distrust, irritation and mutual recrimination, would have been engendered between the friends and advocates of the two banks, the consequences of which, could not have been other than fatal to public happiness, as well as to the benevolent objects which the last legislature were so eager to accomplish. The course of policy adopted by this board, was intended to avert all these evils, to enable them to issue the largest possible amount of paper, and support its currency until the meeting of the legislature, when it was anticipated, that such measures would be adopted as would establish more firmly, the credit of this institution.

By the transfer of the state's deposit, the Bank of Kentucky became indebted to this bank about 70,000 dollars; for which sum, the latter held the notes of that institution. In a few weeks after the bank commenced operations, and

after the above transfer, the cashier of the Bank of Kentucky offered a considerable amount of the paper of this bank in part payment of this debt. The question was, whether this bank would, in this instance, receive its own paper in the payment of the debt due to it. In transactions between man and man, this proposition would hardly admit of a dispute. The obligation of a creditor to receive his own notes in payment, is not only recognized in the code of morality, but is inforced by legal enactments. How banks are absolved from the principles of action which regulate the conduct of other individuals and constitute the bond which holds society together, this board has never learned, nor have they the ingenuity to conjecture. But if the Bank of Kentucky had no right to demand of this bank the reception of its own paper in payment, there were other considerations which rendered this course as expedient as it was just. Had the Bank of Kentucky ascertained that she could not pay her debt to this bank with its own paper, she would instantly have refused to receive it. And could she have been blamed? Could that institution or any individual be expected to receive the paper of a bank, which neither paid its notes, nor took them in payment? A refusal on the part of this bank to receive from the Bank of Kentucky, this paper in payment of her debt, would, therefore, have been instantly followed, and justly too, by its rejection at every department of that institution. Its credit might not have been destroyed; but it would have received a blow which would necessarily have deprived the community of a large portion of that relief which has been so extensively realized.

It has been suggested, that this board might have refused to receive payment of this debt, even in their own paper, until the Bank of Kentucky resumed the payment of specie, and that its continued existence would have operated as a check upon that institution. Such was not the opinion of this board. It was not possible to conceal from that bank the amount of this debt; and although she would generally refuse to receive or give credit to the paper of this bank, she would, on executions and in payment of doubtful debts, accumulate a sufficient amount to offer as a set off, whenever payment should be demanded. When the cashier should present the Bank of Kentucky with her notes, and demand payment, could he refuse to receive the notes of this bank? If he did, could this board enforce payment in specie, even by law? Would not their own notes form an

adequate set-off in courts of justice, as well as in courts of honor and morality? The result of the course of policy which has been suggested, would have been, that this board after suffering all the evils which could arise from the discredit of their notes in the Bank of Kentucky, would at last, have been forced to an exchange of paper. The consequences of refusing to exchange paper with that bank, would, therefore, have been unmingled evil.

There is but one way in which this result could by any possibility, have been avoided. This board might have refused to receive their own paper from the Bank of Kentucky in payment of the debt due them from that bank; they might have held the notes of that institution until she commenced the payment of specie; they might then have put them into the hands of individuals, to be cashed for their use; they might have drawn the specie from that bank and placed it in their own vaults—thus indirectly exacting payment from those to whom they were indebted. They might have done all this; they might have locked up the precious metals and refused to pay one dollar to the bank from which they had exacted the utmost cent; they might have exulted in the success of their scheme and set their creditor at defiance. But this board found insurmountable obstacles to this course, in their own feelings, and in the character of the general assembly. Humble indeed must be their pretensions to honor and fairness, when their feelings will tolerate a policy so unjust—low indeed will be the character of the general assembly, when it requires trick and cunning to support the credit of an institution which is the creature of its power and the object of its protection. A frank, manly and direct course, was the only one which this board could pursue—the only one which was worthy of being communicated to the representatives of the people.

With the Bank of Ky. exchanges of paper have been made to the amount of about 40,000 dollars, and there is about 31,000 dollars of the notes of that bank, still in the possession of this institution. The object of the directory has been completely effected. The Bank of Kentucky has continued to receive the paper of this bank, equality has been preserved in the credit of the two institutions, and the paper of both has maintained its currency until the legislative arm is again stretched forth to strengthen and perfect a system of revenue and relief, which may continue, as it has already been, the source of innumerable blessings. That the board by this policy, united with their system of calls, have succeed-

ed to the extent of their most sanguine expectations, in distributing the desired relief to a distressed community and in preserving the credit of the paper which has been so extensively emitted, is with them a subject of gratulation, and they doubt not will be highly gratifying to the representatives of the people. The future credit and usefulness of the institution over which they have been called to preside, must essentially depend on measures which it is not their province to suggest.

The Princeton Branch Bank is the only one, the annual report of which, has not been received. It has doubtless been delayed by some accident, and will be communicated to the legislature as soon as it arrives. The situation of this bank and all its other branches, will be ascertained by a reference to the tables and reports, that are herewith transmitted.

Much dissatisfaction having been expressed, at the delays which occurred in emitting the paper of this bank, and it being impossible in this report, to enter into a minute detail of the preliminary proceedings of the board, and the various obstacles which prevented the earlier distribution of their notes, the president and directors earnestly solicit the appointment of a joint committee of both houses of the general assembly, with full power to investigate the causes of the supposed delinquencies, and examine into the general management of the institution. The more minutely and strictly such a scrutiny shall be made, the more satisfactory will it be to them ; for by such means only, can an adequate knowledge be obtained, of the thousand little difficulties and countless labors incident to the task in which they have been engaged, and which in the easiness of general computation, are entirely overlooked.

Your Ob't Serv't,

JOHN J. CRITTENDEN, Pres't,

*of the Bank of the Commonwealth of Kentucky.*

## GENERAL SUMMARY.

| Branch. | Amount of expences. | Amount of discounts | Amount of deposites. | Am't. of notes discounted. | Am't notes issued |
|---|---|---|---|---|---|
| | D. C | D. C | D. C. | D. C | Dollars. |
| Lexington, | 355 24 | 6.054 09 | 90,880 57 | 211,990 66 | 196,442 |
| Harrodsburg, | 1 261 12 | 6,902 43 | 15.073 27 | 237,085 16 | 236.410 |
| Hartford, | 532 65 | 2,698 13 | 5 516 38 | 88,164 00 | 88 186 |
| Princeton, | 338 03 | 4,801 13 | 7,387 69 | 197,473 59 | 202,326 |
| Bowlinggreen, | 371 56 | 4,192 69 | 16,171 12 | 177.020 00 | 178.036 |
| Mountsterling, | 668 50 | 2.188 00 | 5,661 72 | 84,107 32 | 85,112 |
| Flemingsburg, | 394 12 | 3,481 28 | 11 962 31 | 141.082 00 | 143 910 |
| Falmouth, | 853 24 | 3,378 03 | 3 270 08 | 130 928 93 | 133,920 |
| Louisville, | 1,349 92 | 8,115 92 | 80,275 61 | 276,252 00 | 280.338 |
| Greensburg, | 187 39 | 4 890 78 | 9.402 89 | 176.072 30 | 173,394 |
| Somerset, | 439 25 | 2,909 39 | 2 889 73 | 117,353 62 | 119.354 |
| Winchester, | 710 86 | 6,620 55 | 6.441 70 | 244 754 50 | 244,716 |
| Principal Bank, | 4,571 65 | 8,845 74 | 95,880 21 | 298,128 14 | 275,072 |
| | 12,033 0 | 65.078 16 | 350.813 28 | 2,380,412 22 | 2 357,216 |

Amount of paper forwarded to the branches since the 30th September last, and not included in the ab ove statement $ 81,088 00

E. E.

JOHN T. PENDLETON, *Clerk.*

*Ordered*, That the public printers print two hundred copies of said report, for the use of the members of this house.

And then the house adjourned.

## MONDAY, OCTOBER 22, 1821.

Mr. Samuel Brents, a member returned to serve in this house from the county of Green, appeared, produced a certificate of his election, and of his having taken the oaths required by the constitution of the United States and the constitution and laws of this state, and took his seat.

Mr. Wickliffe presented the petition of Tine Rynearson, praying a divorce from her husband, Yorcum Rynearson,

Mr. Warfield presented the petition of Minor Winn, praying that a law may pass authorizing him to build a dam and erect mills on Main Licking, below the mouth of Beaver.

Mr. Todd presented the petition of Sevier Lewis, praying that a reasonable compensation may be made him out of the public treasury, for apprehending and bringing to justice, Elisha English, a fugitive from the justice of this state, who was apprehended in the state of Indiana.

Which petitions were severally received, read and with the accompanying documents, referred—the first to the

committee of religion; the second to a select committee of messrs. Warfield, Crawford, Griffith, Mullens, M'Clanahan and Fletcher, giving said committee leave to report by bill or otherwise; and the third to the committee of claims.

Leave was given to bring in the following bills:

On the motion of Mr. Yancey—1. A bill to equalize and so arrange the distribution of the funds of the Commonwealth's Bank, as to locate in each county their due proportion of the same.

And on the motion of Mr. Munford—2. A bill to establish a seminary of learning in the county of Hart.

Messrs. Yancey, Worthington, Brooking, Herald, Stone, of Wayne, Goode and J. G. Hardin, were appointed a committee to prepare and bring in the first; and messrs. Munford, Brents, Inglish and Miller, the second.

The following bills were reported from the several committees appointed to prepare and bring in the same.

By Mr. Allen—1. A bill to amend the several acts regulating sheriffs' and constables' fees in this commonwealth.

And by Mr. Howard—2. A bill to repeal in part, the act classing tobacco.

Which bills were severally received and read the first time and ordered to be read a second time.

The house took up a resolution from the senate for appointing a joint committee to examine the Bank of Kentucky, which was read as follows, viz:

IN SENATE, OCTOBER 19, 1821.

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That a committee of four from the senate and nine from the house of representatives, be appointed to examine the Bank of Kentucky, and to report specially the amount of the capital stock of said bank and its branches, distinguishing therein the amount owned by the state and the amount owned by individuals; also, the amount of debts due the same, the money deposited therein, the notes in circulation and the specie in the principal Bank and each of its branches; and such other matters and information in relation to the said bank and its branches as they may deem material, and that they have power to send for persons, papers and records.

Extract, &c. Att. WILLIS A. LEE, C. S.

The said resolution being amended, was concurred in, as follows, viz:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That a committee of four from the senate and nine from the house of representatives, be appointed to examine the Bank of Kentucky, and to report specially the amount of the capital stock of said bank and its branches, distinguishing therein the amount owned by the state and the amount owned by individuals; also, the amount of debts due the same, by reporting specially, the amount due from stockholders on account of stock, as also the amount loaned them exclusive of stock, and the amount of stock pledged on loans, the amount due by individuals, the amount of specie deposits, the amount of notes deposited in their own notes and in the notes of other banks, distinguishing on what banks the notes are, thus deposited, and the probable amount of loss by bad debts, the notes in circulation and the specie in the principal bank and each of its branches, and such other matters and information in relation to the said bank and its branches as they may deem material; and that they have power to send for persons, papers and records.

*Ordered*, That Mr. M'Millan inform the senate thereof, and request their concurrence in the amendments proposed.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate disagree to the amendments proposed by this house, upon concurring in a resolution which originated in the Senate, for appointing joint committees to examine the public offices.

And then he withdrew.

A message from the senate by Mr. Crutcher:

*Mr. Speaker*,

The senate have passed a bill which originated in this house, entitled an act declaring part of Floyd's fork navigable.

And then he withdrew.

Mr. Murray read and laid on the table a joint resolution for appointing a joint committee to take into consideration the report of the President and Directors of the Bank of the Commonwealth.

And thereupon, the rule of the house requiring said resolution to lie one day on the table being dispensed with, the same was taken up, twice read, amended and adopted, in the following words:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That joint committees to be composed of the sen-

ators and representatives from the different counties composing the bank district in which the bank or any branch bank of the Commonwealth may be situated, be appointed to take into consideration the report of the President and Directors of the Bank of the Commonwealth, and those of the different branch banks accompanying the same, situated in their respective districts; and that they report the result of their examination, to each branch of the General Assembly.

*Ordered*, That Mr. Murray carry the said resolution to the senate and request their concurrence.

Mr. Pope moved the following resolutions, viz.

*Resolved by the house of representatives*, That the President of the Bank of the Commonwealth, be requested to lay before this house as soon as convenient, a copy of the correspondence between said bank and the President and Directors of the Bank of Kentucky, relative to the exchange of paper, and the receipt of the notes of the said banks respectively—and the proceedings of the said bank in relation thereto.

*Resolved*, That the President and Directors of the Bank of Kentucky, be requested to lay before this house, a copy or copies of the letter or letters of instruction and advice to the several branches of said bank, relative to the receipt and loaning of the notes of the Bank of the Commonwealth, and any information in their possession, relative to the course pursued by the said bank and its branches, in relation to the paper of the said bank.

Which being severally twice read, were adopted.

Mr. Benjamin Duncan, a member returned to serve in this house from the county of Daviess, appeared, produced a certificate of his election, and of his having taken the oaths required by the constitution of the United States, and the constitution and laws of this state, and took his seat.

An engrossed bill entitled, an act to authorize the citizens of Springfield to elect trustees for said town, was read a third time, and the blanks therein filled.

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Cosby carry the said bill to the senate and request their concurrence.

A bill from the senate entitled, an act allowing further time to the county court of Henry to make and return their lists of taxable property for the year 1821, and a bill from

the senate entitled, an act to amend the act entitled, an act to regulate endorsements on executions;

Were severally read a second time; the former was ordered to be read a third time to morrow; and the latter was committed to a select committee of messrs. Cowan, Wickliffe and B. Taylor.

The following bills were severally read a second time and ordered to be engrossed and read a third time to morrow, viz: 1. A bill to alter the mode of admitting persons to bail under writs of habeas corpus; 2. a bill for the benefit of the widow and heirs of Isaac Howdysheit, deceased; and 3. a bill further to regulate the payment of the debt due the commonwealth for the sale of vacant lands.

The house proceeded to reconsider their amendments proposed to a resolution from the senate for appointing joint committees to examine the public offices, which being again read,

*Resolved*, That this house *recede* from their said amendments.

Whereupon, messrs. Allen, Stone, of Madison, Buford, Dejarnett, Jackman and Cooper, were appointed a committee on the part of this house to examine the Treasurer's office; messrs, Patterson, C. H. Taylor, White, M'Connell, Brooking, Cockerill, Wiley and Talbot, a committee to examine the Register's office; messrs. Yancey, Barnett, Cogswell, Bradford, Desha, Kincheloe, Green, Lockett, Gordon and Witherspoon, to examine the Auditor's office; and messrs. Todd, Howard, Speed, Smith, Murray, Lecompte, Thompson, Catlett, Bruce, Gaither, Slack and Stratton, a committee to examine and report the state of the Penitentiary.

*Ordered*, That Mr. Yancey inform the senate thereof.

And then the house adjourned.

## TUESDAY, OCTOBER 23, 1821.

A message from the senate by Mr. Lee, their secretary: *Mr. Speaker*,

The senate have passed bills which originated in this house of the following titles to wit: an act to authorize the editors of certain newspapers to insert in their papers certain advertisements; an act for the benefit of Paul Durrett of Montgomery county; an act giving the judge of the thirteenth judicial district further time to remove into and reside in

the same; and an act to authorise the citizens of Springfield to elect trustees for said town: And they have passed bills of the following titles: An act for the relief of certain sheriffs; and an act for the benefit of John White; in which two latter bills they request the concurrence of this house.

And then he withdrew.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to-wit:

Resolved that the petition of Susan Stroud, representing that her husband, William Stroud, last March married another woman and has left the state; and praying for a divorce, *is reasonable.*

*Resolved*, That the petition of Dorcas Burch, representing that her husband, Leonard Burch, has treated her in such a barbarous and inhuman manner that she cannot live with him; and praying for a divorce, *be rejected.*

*Resolved*, That the petition of Debe Jinnons, representing that her husband, Daniel Jinnons, has abandoned her for nearly four years; and praying for a divorce, *be rejected.*

They have also had under consideration, the petition of Fielding Alford, praying for a divorce, which was recommitted to them, and have come to the following resolution thereupon, to-wit:

*Resolved*, that said petition, *is reasonable.*

*Resolved*, That the petition of Tine Rynearson, representing that her husband, Yocum Rynearson, abandoned her about twelve years ago, has gone to the state of Ohio and married another woman; and praying for a divorce, *is reasonable.*

Which being twice read, and the third resolution amended by striking out the words "*be rejected,*" and inserting in lieu thereof the words "*is reasonable,*" was concurred in.

*Ordered*, That the said committee prepare and bring in bills pursuant to the 1st, 3d, 4th and 5th resolutions.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Cockerill—1. A bill to repeal in part an act entitled, an act to regulate taverns and restrain tipling houses.

By Mr. Noland—2. A bill declaring the north fork of Kentucky, a navigable stream.

By Mr. Stone, of Wayne—8, A bill further to indulge the settlers on the lands acquired by the treaty of Tellico.

By. Mr. Luckett—4. A bill for the benefit of Mechanics.

By Mr. Miller—5. A bill to allow an additional number of justices of the peace in the county of Hardin.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon, the rule of the house, constitutional provision and second reading of the fifth bill being dispensed with, the same was committed to a select committee of messrs. Warfield, Moore, Miller and Goode.

The speaker laid before the house a letter from the President of the Bank of Kentucky, covering sundry documents containing statements in relation to the situation of that institution, which was then read as follows, viz:

BANK OF KENTUCKY, OCTOBER, 1821.

*Dear Sir:*

THE President and Directors of the Bank of Kentucky, in the discharge of the duty assigned to them by the 15th section of the act to amend and extend the charter of the Bank of Kentucky, approved 26th December 1820, have caused a valuation of the worth of the institution to be made out, agreeably to the classification prescribed by that section, which is herewith most respectfully submitted, through you, to the honorable body over which you preside.

It may not perhaps be unsatisfactory, to accompany that valuation by a brief detail of the mode adopted by this board to render it, as far as practicable, equitable and impartial to all the parties interested.

The cashier of the principal office was instructed, during the summer, to visit all the departments, inspect their condition, convene the respective boards of directors, state the object in view, and enjoin them to scan the lists of debtors, designating such as from the best information were either bad or doubtful, taking care at the same time to keep those heads distinct and separate.

Where estate, either real or personal, appertained to the bank, or was held as a security for moneys loaned, the departmental directories were advised to nominate two or more intelligent and respectable persons, unconnected with the direction, to value the said estate, and to report in writing the result of that valuation. These instructions were strictly conformed to, and the cashier, upon his return, presented the lists of debtors, marked and discriminated in the man-

ner prescribed, together with the certificates of valuation made in conformity to the mode pointed out.

The cashiers of the departments were also required to report the condition of their offices on the first instant, together with the correspondence between the books and the evidences in possession.

The same course has been pursued here.

From these sources the valuation which is now submitted has been framed. The amounts which are reported as bad and as doubtful, are as relates to the *debts* due the institution upon the principal of those debts, exclusive of the interest accrued thereon, which could not be so well taken into this estimate. The same is to be remarked as to the amount of debt represented by the tables as constituting a means of the bank. No interest which has been unpaid with the exception of some discounts, is included in that amount, or contributes to swell it out.

It is deemed advisable to subjoin to this communication a general statement of the condition of the institution. Such statement is almost indispensable to the full comprehension and understanding of the table of valuation, and will exhibit at once, in a condensed shape, the liabilities and the resources of the bank.

The table marked A. contains the estimate of the worth of the institution. That marked B, exhibits the general condition of its affairs.

The state holds an interest in the capital stock of $596,700; the residue is held principally by individuals. Although there were under issue on the first inst. at the respective offices. notes of the Bank of Kentucky to the aggregate amount of $ 1,290,888 06, yet there was on hand, on the same day, of those notes, the sum of $371,171, collected at offices other than those whence they were issued; so that in fact there was only actually in circulation, of the paper of this institution, and for which it is responsible, the sum of $919,717 06.

Of the deposites, the sum of $109,959 consists of balances due from the offices respectively, each to the other; $8,143 51 in specie or specie funds, and $64,875 36 in notes of the Bank of the Commonwealth of Kentucky. The sum of $9,259 88 is applicable to claims existing against the depositors and cannot be withdrawn. The balance remaining of said deposites, after these several items are deducted therefrom, is the amount for which, in addition to

the notes actually afloat, the institution must provide the means of payment and redemption.

There is, of the amount reported under the head of cash, the sum of $270,502 10 in specie, and the sum of $153,081 33 cents in the notes of the Bank of the Commonwealth of Kentucky. A part of these sums, as before stated, consists of special deposites. A respectable proportion of such parts of the exhibit of cash, as have not been designated by these elucidations, consists of funds equivalent to specie.

Of the resources classified under the head of Due to the Bank, 3,838,771 dollars 43 cents consists of negotiable notes and bills of exchange; 3,212 dollars 50 cents, of sums due on various accounts; 43,193dollars 10 cents, of balances against banks; and the residue, of credits against the offices of the institution.

The real estate appertaining to the bank, the current expences, the reserved and the running profits, are all reported in the tables under appropriate heads.

It may not be amiss to state, that many minor claims against the institution, such as clerks' and lawyers' fees, have not been presented, and are therefore both unascertained and unincluded in the head of charges.

592,893 dollars 79 cents of the debt due to the institution is loaned on a pledge of stock; the residue, upon real and personal estate and personal responsibility.

It is but justice, and indispensably due to his feelings, to state, that the deficit of cash reported as having occurred at the Paris branch, existed at the time of the present cashier's introduction into that office—from what cause it has arisen, I am unable to explain.

I am, dear sir, most respectfully, yours,

J. HARVIE, *Pres't.*

*The hon. Speaker of the House of Representatives.*

(A.)

ESTIMATE OF THE WORTH OF THE BANK OF KENTUCKY ON THE 1ST OCTOBER 1821.

FRANKFORT.

| *Subject.* | *Doubtful.* | *Bad.* |
|---|---|---|
| Debts of individuals, | 68,349 93 | 66,617 99 |
| Balances against banks, | 96 09 | |
| Counterfeits, | | 183 |
| Insolvent bank notes, | | 634 |
| Uncurrent bank notes, | 466 | |
| Dolls. | 68,912 02 | 67,434 99 |

## WASHINGTON.

| *Subject.* | *Doubtful.* | *Bad.* |
|---|---|---|
| Debts of individuals, | 10,000 | 5,000 |
| Counterfeits, | | 231 |
| Dolls. | 10,000 | 5,231 |

## PARIS.

| | | |
|---|---|---|
| Counterfeits, | | 222 10 |
| Uncurrent bank notes, | 115 | |
| Deficiency of cash, | | 131 14 |
| Dolls. | 115 | 353 24 |

## WINCHESTER.

| | | |
|---|---|---|
| Debts of individuals, | 9,414 98 | 4,000 |
| Counterfeits, | | 42 50 |
| Dolls. | 9,414 98 | 4,042 50 |

## LEXINGTON.

| | | |
|---|---|---|
| Debts of individuals, | 12,303 27 | 32,599 18 |
| Counterfeits, | | 206 |
| Uncurrent bank notes, | 461 | |
| Dolls. | 12,764 27 | 32,805 18 |

## SHELBYVILLE.

| | | |
|---|---|---|
| Debts of individuals, | 12,681 51 | |
| Counterfeits, | | 75 50 |
| Insolvent bank notes, | | 2 25 |
| Uncurrent bank notes, | 188 | |
| Dolls. | 12,869 51 | 77 75 |

## LOUISVILLE.

| | | |
|---|---|---|
| Debts of individuals, | 4,350 | |
| Insolvent bank notes, | | 125 |
| Dolls. | 4,350 | 125 |

## DANVILLE.

| | | |
|---|---|---|
| Debts of Individuals, | 2,155 | |
| Insolvent bank notes, | | 23 |
| Dolls. | 2,155 | 23 |

GLASGOW.

| *Subject.* | *Doubtful.* | *Bad.* |
|---|---|---|
| Debts of individuals, | 8,994 | |
| Counterfeits, | | 20 |
| Uncurrent bank notes | 837 | |
| | Dolls. 9,831 | 20 |

SPRINGFIELD.

| | | |
|---|---|---|
| Counterfeits, | | 10 |
| Insolvent bank notes, | | 90 |
| Uncurrent bank notes, | 550 | |
| | Dolls. 550 | 100 |

RUSSELLVILLE.

| | | |
|---|---|---|
| Debts of individuals, | 7,383 | 298 57 |
| Uncurrent bank notes, | 954 50 | |
| Insolvent bank notes, | | 44 |
| | Dolls. 8,337 50 | 342 57 |

HOPKINSVILLE.

| | | |
|---|---|---|
| Debts of individuals, | 9,440 | |
| Counterfeits, | | 8 |
| Insolvent bank notes, | | 384 |
| Uncurrent bank notes, | 699 | |
| | Dolls. 10,139 | 392 |

BARDSTOWN.

| | | |
|---|---|---|
| Debts of individuals, | 3,186 37 | 2,634 27 |
| Uncurrent bank notes, | 798 | |
| Insolvent bank notes, | | 30 |
| | Dolls. 3,984 37 | 2,664 27 |

RICHMOND.

*Schedule of the Real Estate owned by the Bank of Kentucky, on the first day of October* 1821.

FRANKFORT.

| *Description of Property.* | *Cost.* | *Valuation.* | *Loss.* |
|---|---|---|---|
| Banking house, | 10,000 | 7,000 | 3,000 |

WASHINGTON.

| | | | |
|---|---|---|---|
| Banking house, | 9,023 01 | 4,000 | 5,023 01 |

PARIS.

| *Description of Property.* | *Cost.* | *Valuation.* | *Loss.* |
|---|---|---|---|
| Banking house, | 7,473 09 | 4,500 | 2,973 09 |
| WINCHESTER. | | | |
| Banking house, | 5,547 78 | 3,500 | 2,047 78 |
| LEXINGTON. | | | |
| Banking house, | 15,727 99 | 6,000 | 9,727 99 |
| House on Main st. (bought in,) | 800 | 800 | |
| SHELBYVILLE. | | | |
| Banking house, | 4,454 05 | 2,800 | 1,654 05 |
| BARDSTOWN. | | | |
| Brick row of S. T. Beall, | 15,510 | 15,510 | |
| LOUISVILLE. | | | |
| Banking house, | 8,753 90 | 8,000 | 753 90 |
| RUSSELLVILLE. | | | |
| Banking house, (a donation) | | 3,000 | |
| Dolls. | 77,289 82 | 55,110 | 25,179 82 |

RECAPITULATION.

| *Office.* | *Doubtful.* | *Bad.* | *Good.* |
|---|---|---|---|
| Frankfort, | 68,912 02 | 67,434 99 | 992,235 39 |
| Washington, | 10,000 | 5,231 | 338,275 91 |
| Paris, | 115 | 353 24 | 251,028 56 |
| Winchester, | 9,414 98 | 4,042 50 | 202,689 20 |
| Lexington, | 12,764 27 | 32,805 18 | 402,481 94 |
| Shelbyville, | 12,869 51 | 77 75 | 171,437 12 |
| Louisville, | 4,350 | 125 | 502,407 92 |
| Danville, | 2,155 | 23 | 242,017 72 |
| Glasgow, | 9,831 | 20 | 216,668 80 |
| Springfield, | 550 | 100 | 190,739 60 |
| Russellville, | 8,337 50 | 342 57 | 359,737 16 |
| Hopkinsville, | 10,139 | 392 | 290,738 23 |
| Richmond, | | | 218,084 90 |
| Bardstown, | 3,984 37 | 2,664 27 | 199,460 38 |
| | 153,422 65 | 113,611 50 | 4,578,022 83 |
| Real estate, | | 25,179 82 | 55,110 |
| Dolls. | 153,422 65 | 138,791 32 | 4,633,132 83 |

SUMMARY.

| | |
|---|---|
| Doubtful, | 153,422 65 |
| Bad, | 138,791 32 |
| Good, | 4,633,132 83 |
| Dolls. | 4,925,346 80 |

(B.)

*A statement of the condition of the Offices of the Bank of Kentucky, on the 1st of October 1821.*

FRANKFORT.

| | | | |
|---|---|---|---|
| Cash, | 47,487 26 | Stock, | 642,220 |
| Due from individ's. | 961,336 93 | Notes in circulation, | 339,349 31 |
| Due from banks, | 119,758 21 | Due to banks, | 55,083 63 |
| Charges, | 2,051 74 | Individual deposites, | 45,181 56 |
| Real estate, | 10,000 | Discounts & prem's. | 7,855 79 |
| | | Reserved profits, | 50,943 85 |
| | $1,140,634 14 | | $1,140,634 14 |

WASHINGTON.

| | | | |
|---|---|---|---|
| Cash, | 61,127 56 | Stock, | 250,000 |
| Due from individ's. | 288,552 37 | Notes in circulation, | 58,523 75 |
| Due from banks, | 3,826 98 | Due to banks, | 5,764 06 |
| Charges & premiums, | 1,039 10 | Individual deposites, | 44,163 70 |
| Real estate, | 9,023 01 | Discounts & prem's. | 5,117 51 |
| | $363,569 02 | | $363,569 02 |

PARIS.

| | | | |
|---|---|---|---|
| Cash, | 54,218 59 | Stock, | 160,000 |
| Due fr individuals, | 191,818 88 | Notes in circulation, | 47,714 |
| Due from banks, | 5,459 33 | Due to banks, | 526 47 |
| Charges, | 969 08 | Discounts & prem's. | 3,405 87 |
| Real estate, | 7,473 09 | Individual deposites, | 48,423 77 |
| Deficit in cash acc't. | 131 14 | | |
| | $260,070 11 | | $260,070 11 |

WINCHESTER.

| | | | |
|---|---|---|---|
| Cash, | 48,107 29 | Stock, | 120,000 |
| Due fr. individuals, | 167,782 83 | Notes in circulation, | 41,165 50 |
| Due from banks, | 256 56 | Due to banks | 13,339 46 |
| Real estate, | 5,547 78 | Individual deposites, | 45,066 19 |
| Charges, | 595 57 | Discounts & prem's. | 2,668 33 |
| | $222,290 03 | | $222,290 03 |

LEXINGTON.

| | | | |
|---|---|---|---|
| Cash, | 155,738 07 | Stock, | 272,800 |
| Due fr. individuals. | 283,250 54 | Notes in circulation, | 30,286 |
| Due from banks, | 9,062 78 | Due to banks, | 23,101 39 |
| Charges, | 1,624 80 | Individual deposites, | 121,918 08 |
| Real estate, | 16,527 99 | Discounts & prem's. | 3,663 76 |
| | | Reserved profits, | 14,434 95 |
| | $466,204 18 | | $466,204 18 |

SHELBYVILLE.

| | | | |
|---|---|---|---|
| Cash, | 16,135 92 | Stock, | 110,000 |
| Due fr. individuals, | 162,020 42 | Notes in circulation, | 48,487 |
| Due from Banks, | 6,228 04 | Due to banks, | 13,524 72 |
| Charges, | 978,29 | Individual deposites, | 15,117 72 |
| Real estate, | 4,454 05 | Discounts & prem's. | 2,687 23 |
| | $189,816 72 | | $189,816 72 |

LOUISVILLE.

| | | | |
|---|---|---|---|
| Cash, | 115,285 77 | Stock, | 325,000 |
| Due fr. individuals, | 381,352 06 | Notes in circulation, | 41,595 75 |
| Due from banks, | 10,245 09 | Due to banks, | 7,281 37 |
| Charges, | 957 87 | Individual deposites, | 137,154 03 |
| Real estate, | 8,753 90 | Discounts & prem's. | 5,563 54 |
| | $516,594 69 | | $516,594 69 |

DANVILLE.

| | | | |
|---|---|---|---|
| Cash, | 45,973 62 | Stock, | 150,000 |
| Due fr. individuals, | 189,727 48 | Notes in circulation, | 84,702 50 |
| Due from banks, | 8,494 62 | Due to banks, | 35 93 |
| Charges, | 971 39 | Individual deposites, | 7,483 48 |
| | | Discounts & prem's. | 2,945 20 |
| | $245,167 11 | | $245,167 11 |

GLASGOW.

| | | | |
|---|---|---|---|
| Cash, | 29,392 85 | Stock, | 100,000 |
| Due fr. individuals, | 197,126 95 | Notes in circulation, | 106,715 |
| Charges, | 942 75 | Due to Banks, | 12,588 55 |
| | | Individual deposites, | 5,162 41 |
| | | Discounts & prem's. | 2,996 59 |
| | $227,462 55 | | $227,462 55 |

SPRINGFIELD.

| | | | |
|---|---|---|---|
| Cash, | 24,155 55 | Stock, | 100,000 |
| Due fr. individuals, | 166,605 | Notes in circulation, | 79,302 |
| Due from banks, | 629 05 | Due to banks, | 582 37 |
| Charges, | 964 59 | Individual deposites, | 8,859 94 |
| | | Discounts & prem's. | 3,109 88 |
| | $192,354 19 | | $192,354 19 |

RUSSELLVILLE.

| | | | |
|---|---|---|---|
| Cash, | 80,539 72 | Stock, | 140,000 |
| Due fr. individuals, | 286,676 33 | Notes in circulation, | 149,376 25 |
| Due from banks, | 1,201 18 | Due to banks, | 14,847 05 |
| Charges, | 540 07 | Individual deposites, | 59,781 88 |
| Real estate, | 3,000 | Discounts & prem's. | 4,952 12 |
| | | Donation B. house, | 3,000 |
| | $371,957 30 | | $371,957 30 |

## HOPKINSVILLE.

| | | | |
|---|---|---|---|
| Cash, | 64,392 39 | Stock, | 120,000 |
| Due fr. individuals, | 235,725 25 | Notes in circulation, | 133,534 |
| Due from banks, | 1,171 59 | Due to banks, | 8,092 61 |
| Charges, | 1,121 03 | Individual deposites, | 36,731 61 |
| | | Discounts & prem's. | 4,052 04 |
| | $302,410 26 | | $302,410 26 |

## RICHMOND.

| | | | |
|---|---|---|---|
| Cash, | 43,733 73 | Stock, | 120,000 |
| Due fr. individuals, | 174,303 | Notes in circulation, | 52,410 |
| Due from banks, | 48 17 | Due to banks, | 9,677 18 |
| Charges, | 735 75 | Individual deposites, | 33,488 83 |
| | | Discounts & prem's. | 3,244 64 |
| | $218,820 65 | | $218,820 65 |

## BARDSTOWN.

| | | | |
|---|---|---|---|
| Cash, | 39,062 21 | Stock, | 113,900 |
| Due fr. individuals, | 155 705 97 | Notes in circulation, | 77,227 |
| Due from banks, | 11 340 84 | Due to banks, | 1,149 23 |
| Charges, | 1,062 50 | Individual deposites, | 25,486 25 |
| Real estate, | 15,510 | Reserved profits, | 1,220 50 |
| | | Discounts & prem's | 698 54 |
| | $222,681 52 | | $222,681 52 |

## SUMMARY.

| Office | Stock | Notes in circulation | Deposites | Cash on hand. | Due to the Bank. |
|---|---|---|---|---|---|
| | Dollars | D C. | D C. | D C. | D C |
| Frankfort, | 642,220 | 339,849 31 | 100,265 19 | 47,487 26 | 1 081 095 14 |
| Washington, | 250,000 | 58 5 3 75 | 49,927 76 | 61 127 56 | 292, 79 35 |
| Paris, | 160,000 | 47 714 | 48,950 24 | 54,2 8 59 | 197 278 21 |
| Winchester, | 20 000 | 41 165 5 | 58,455 65 | 48 107 29 | 168,039 39 |
| Lexington. | 272,800 | 30 98 | 14 0 9 47 | 155,738 07 | 292,313 32 |
| Shelbyville, | 1 0,000 | 48,487 | 28,642 44 | 16 135 92 | 168,248 46 |
| Louisville, | 825,000 | 41 5 5 75 | 44 4,5 40 | 145,285 7 | 391 597 15 |
| Bardstown, | 13,900 | 77,227 | 26 635 48 | 39,062 21 | 167,046 81 |
| Springfield, | 100 000 | 79,802 | 9,442 31 | 24,155 55 | 167,234 05 |
| Danville, | 150,000 | 84,702 50 | 7,519 41 | 45,973 62 | 1 8,222 10 |
| Richmond, | 120 000 | 52,410 | 43 166 01 | 43 733 73 | 174,351 17 |
| Glasgow, | 100 000 | 1 6 7 5 | 17 750 96 | 29 392 85 | 197,126 95 |
| Russellville, | 140 000 | 149,376 25 | 74,6 8 93 | 80,539 7 | 287 877 51 |
| Hopkinsville | 120,000 | 133,524 | 44,8 4 22 | 64,392 39 | 236,896 84 |
| | 2 72 920 | 1,290 888 06 | 799 663 45 | 825,350 5 | 4 019,706 45 |

| | | | |
|---|---|---|---|
| Stock, | 2,723,920 | Cash on hand, | 825,350 52 |
| Notes in circula. | 1,290,888 06 | Due to the bank, | 4,019,706 45 |
| Deposites, | 799,663 47 | Real estate, | 80 289 82 |
| | 4,814,471 53 | | 4,925,346 80 |
| Reserved profits, | 69,599 30 | Charges, | 14,554 53 |
| Running profits, | 55,961 64 | Deficit of cash, | 131 14 |
| | $4,940,032 47 | | $4,940,032 47 |

*Ordered*, That the public printers forthwith print 500 copies of said report and documents, for the use of the members of this house.

On motion,

*Ordered*, That the public printers forthwith print 500 copies each, of the Auditor's and Treasurer's reports, made at the present session of the General Assembly, for the use of the members of this house.

*Ordered*, That Mr. Love be excused from, and messrs. W. O. Butler, Johnson and Desha, be added to the committee appointed to prepare and bring in a bill to amend the militia law: and that Mr. Davis be added to the committee appointed to prepare and bring in a bill to alter the mode of summoning petit juries.

A message from the senate by Mr. Crutcher:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house to a resolution from the senate for appointing a joint committee to examine the Bank of Kentucky.

And then he withdrew.

Whereupon, messrs. Pope, Calhoun, Shannon, A. Butler, Fletcher, Cowan, White, Love and Sandford, were appointed a committee on the part of this house.

*Ordered*, That Mr. Pope inform the senate thereof.

Mr. Shannon moved for leave to bring in a bill to authorize taking the sense of the good people of this commonwealth, as to the necessity and expediency of calling a convention.

*Ordered*, That the title presented on the motion aforesaid, be committed to a committee of the whole house on the state of the commonwealth, for Thursday next.

Mr. Warfield from the select committee to whom was referred, a bill to allow an additional number of justices of the peace in the county of Hardin, reported the same with amendments, which being twice read, were concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time.

And thereupon, the rule of the house, constitutional provision and third reading of the said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, that the title thereof be amended to read "an act to allow an addition number of justices of the peace in certain counties."

*Ordered*, That Mr. Cowan carry the said bill to the senate and request their concurrence.

Leave was given to bring in the following bills, viz:

On the motion of Mr. Anderson—1. A bill authorizing the Editors of the Emporium and Commercial Advertiser, to insert certain advertisements.

On the motion of Mr. Jackman—2. A bill to amend the several acts taxing billiard tables in this commonwealth.

On the motion of Mr. Griffith—3. A bill to regulate the duties of owners or occupyers of water grist mills.

On the motion of Mr. Lockett—4. A bill to restrict the county courts in laying their levies, and mode of letting their public buildings.

On the motion of Mr. Logan—5. A bill further to provide for the settlement of the concerns of the Farmers' and Mechanics' Bank of Shelbyville.

On the motion of Mr. Miller—6. A bill to change the place of holding elections, in the eastern precinct in Hardin county.

Messrs. Anderson, Lockett and White, were appointed a committee to prepare and bring in the first; messrs. Jackman, Payne, Howard, Clark & Yantis, the second; messrs. Griffith, Worthington and M'Millan, the third; messrs. Lockett, Cravens, Kincheloe, Warfield and Wickliffe, the fourth; messrs. Logan, Pearcy, Younger and Wickliffe, the fifth; messrs. Miller, M. Hardin and Moore, the sixth.

Mr. Alexander moved for leave to bring in a bill to raise the wages of the members of the general asssembly of this commonwealth.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

Mr. Yantis from the joint committee of enrollments, reported, that the committee had examined an enrolled bill entitled,

An act declaring part of Floyd's fork navigable.

And had found the same truly enrolled.

Whereupon, the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

After a short time, Mr. Yantis reported, that the joint committee had deposited said bill in the office of the secretary of state, for the approbation and signature of the governor.

Engrossed bills of the following titles;

1. An act to alter the mode of admi ting persons to bail under writs of habeas corpus; 2. an act for the benefit of the widow and heirs of Isaac Howdyshelt, deceased; and 3. an act further to regulate the payment of the debt due the commonwealth for the sale of vacant lands.

Were severally read a third time.

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

The yeas and nays being required on the passage of the third bill by messrs. Stone, of Madison and Howard, were as follows, viz.

Yeas—Mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Calhoun, Cockerill, Cooper, Cosby, Craig, Cravens, Crawford, Davis, Duncan, Eaves, Fletcher, Gaither, Goode, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, Kincheloe, King, Litton, Lecompt, Lockett, Logan, Love, Luckett, Lynch, B. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Moore, Mullens, Munford, Murray, Noland, Patterson, Pearcy, Pendleton, Pope, Rudd, Sandford, Selby, Shannon, Slaughter, Smith, Stone of Wayne, Stratton, J. Taylor, Thompson, Todd, White, Wickliffe, Wiley, Witherspoon, Worthington, Yancey, Yantis and Younger—79.

Nays—Messrs. Barnett, Catlett, Cogswell, Dejarnett, Desha, Howard, J. Mason, M'Millan, Slack, Speed, Stone of Madison, Talbot, C. H. Taylor, and Warfield—14.

*Ordered*, That Mr. Murray carry the said bills to the senate and request their concurrence.

A bill from the senate entitled, an act allowing further time to the county court of Henry to make and return their lists of taxable property for the year 1821, was read a third time.

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Allen inform the senate thereof.

A bill to amend the several acts regulating sheriffs' and constables' fees in this commonwealth, was read a second time and committed to a committee of the whole house for Tuesday next.

And then the house adjourned.

## WEDNESDAY, OCTOBER 24, 1821.

On motion,

*Ordered*, That Michael W. Hall, who has contested the election of Joseph G. Hardin, the member returned to serve in this house from the county of Barren and part of Monroe, and prayed to be permitted to take his seat in lieu of said Hardin, and whose application to this house has been unsuccessful, do pay to the said Hardin his costs expended in that behalf; and that the clerk of this house issue an execution therefor, directed to the sheriff of Barren county, returnable within ninety days.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, viz.

An act to authorize the editors of certain newspapers to insert in their papers certain advertisements.

An act for the benefit of Paul Durrett of Montgomery county.

An act giving the judge of the thirteenth judicial district further time to move into and reside in the same.

And an act to authorize the citizens of Springfield to elect trustees for said town.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. Desha presented the petition of Robert Poague, representing that George Rogers Clarke, in behalf of the state of Virginia, made an entry for 101,920 acres of land west of the Tennessee river, for the purpose of enabling him to carry on an expedition against the hostile Indians; that on the faith and under the expectation of being remunerated in land out of said entry, Joseph Lindsey, the commissary of purchases for the troops under General Clarke, furnished the troops with provisions and necessaries to a considerable amount, out of his own estate, for which he received no compensation; that the said Lindsey intermarried with the mother of the petitioner, by which means he has become entitled to receive the amount due to said Lindsey;

and praying compensation in land, out of the aforesaid entry.

Mr. Davis presented the petition of Polly Nixon, praying to be divorced from her husband, Joseph Nixon.

Mr. B. Taylor presented the petition of John Lillard, praying to be divorced from his wife, Nancy Lillard.

Which petitions were severally received, read and referred; the first to the committee for courts of justice, and the second and third to the committee of religion.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petitions of sundry citizens of Ohio county, praying that a law may pass authorizing Richard L. Walker and Nathan Harris to build a mill dam across Rough creek, near Hartford in said county, *is reasonable*.

*Resolved*, That the petition of sundry citizens of Monroe county, praying that a law may pass declaring big Barren river a navigable stream as high up as the mouth of Line creek, *is reasonable*.

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in bills pursuant to the said resolutions.

The following bills were reported from the several committees appointed to prepare and bring in the same.

By Mr. Miller—1. A bill to change the place of holding elections in the eastern precinct in Hardin county.

By mr. Wickliffe—2. A bill to alter the mode of summoning petit jurors.

And by mr. M'Millan, from the committee of propositions and grievances—3. A bill for the removal of the seat of justice of Campbell county.

Which bills were severally received and read the first time and ordered to be read a second time.

*Ordered*, That the public printers print 200 copies of the second bill, and of a bill to amend the several acts regulating sheriffs' and constables' fees in this commonwealth, for the use of the members of this house.

*Ordered*, That Mr. Clark have leave of absence from the service of this house, until Saturday next.

On the motion of Mr. Brents,

*Ordered*, That leave be given to bring in a bill to amend an act for surveying the claims west of the Tennessee river, approved December 26th, 1820; and that messrs. Brents, Wickliffe, Murray, Logan and May, be appointed a committee to prepare and bring in the same.

The following bills were severally read a second time, viz. 1. A bill to repeal in part an act for classing tobacco; 2. a bill to repeal in part an act entitled, an act to regulate taverns and restrain tippling houses; 3. a bill declaring the north fork of Kentucky river a navigable stream; 4. a bill further to indulge the settlers on the lands acquired by the treaty of Tellico; 5. a bill for the benefit of mechanics.

The 3d and 4th bills were severally ordered to be engrossed and read a third time to-morrow; the 5th was laid on the table, and the question being on engrossing the first and second bill sand reading said bills a third time, it was decided in the negative. and so the said bills were rejected.

The yeas and nays being required on engrossing the first bill and reading the same a third time, by messrs. Howard and Cockerill, were as follows, viz.

Yeas—Messrs. Allen, J. S. Anderson, Bruce, Catlett, Cockerill, Cogswell, Craig, Crawford, Davis, Dejarnett, Duncan. Green, Howard, Lecompte, Lockett, Lynch, M'Millan, Mullens, Patterson, Payne, Pendleton, Sandford, Slack, Speed, Stone of Madison, Talbot, J. Taylor, C. H. Taylor, Todd, Warfield, Wickliffe, Wiley and Worthington—33.

Nays—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Buford, A. Butler, W. O. Butler. Calhoun, Cooper, Cosby. Cowan, Cravens, Desha, Eaves, Fletcher, Gaither, Goode, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes. Inglish, Johnson, Kincheloe, King, Litton, Logan, Love, Luckett, B. Mason, J. Mason, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy. M'Cracken, Miller, Moore, Munford. Murray, Noland, Rudd, Selby, Slaughter, Smith, Stone of Wayne, B. Taylor, Thompson, White, Witherspoon, Yancey, Yantis and Younger—58.

The following bills from the senate were read the first time and ordered to be read a second time, viz:

1. An act for the benefit of John White; and 2. an act for the relief of certain sheriffs.

The house took up the resolutions laid on the table on Saturday, the 20th inst. by Mr. Davis.

The said resolutions were then twice read, and the question being put on adopting the first resolution, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Noland and Rudd, were as follows, to wit:

Yeas—Mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, Calhoun, Catlett, Cogswell, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Fletcher, Gordon, Griffith, J. G. Hardin, Howard, Hughes, Johnson, King, Litton, Lecompte, Lockett, Logan, Love, Luckett, B. Mason, J. Mason, May, M'Connell, S. M'Elroy, M'Millan, M'Cracken, Murray, Patterson, Payne, Pendleton, Shannon, Slack, Slaughter, Smith, Speed, B. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Worthington, Yancey and Yantis—62.

Nays—Messrs. Cockerill, Cooper, Duncan, Eaves, Goode, Green, M. Hardin, Herald, Inglish, Kincheloe, Lynch, M'Clanahan, H. M'Elroy, Miller, Mullens, Munford, Noland, Rudd, Sandford, Selby, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Wiley and Younger—26.

The second resolution was then disagreed to.

*Ordered*, That Mr. Davis carry the said resolution to the senate and request their concurrence.

On motion,

*Ordered*, That Mr. Brents be added to the committee to whom was referred, so much of the governor's message as relates to the establishment of a lunatic hospital.

And then the house adjourned.

## THURSDAY, OCTOBER 25, 1821.

Mr. M'Clanahan presented the petition of William P. Grigg, praying a divorce from his wife, Sophia, late Sophia Philips.

Mr. Cogswell presented the petition of John Hornback praying a divorce from his wife, Nancy, late Nancy Wiginton.

Mr. Pearcy presented the petition of Benjamin Miles of Shelby county, praying that some provision may be made by law for his support and maintenance, on account of his poverty and total inability to labor for a subsistence.

And Mr. Craig presented the petition of Samuel Simpson of Harlan county, praying a donation of land.

Which petitions were severally received and read: the first and second were referred to the committee of religion, and the fourth to a select committee of messrs. Craig, Calhoun, Thompson and Smith, giving said committee leave to report by bill or otherwise; and the question being taken on referring the third petition to the proper committee, it was decided in the negative, and so the said petition was rejected.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Brents—1. A bill to amend an act for surveying the military claims west of the Tennessee river, approved December 26, 1820.

By mr. Munford—2. A bill to establish a seminary of learning in the county of Hart.

By mr. Jackman—3. A bill to amend the several acts taxing billiard tables and for other purposes.

By mr. Yancey—4. A bill to equalize and so arrange the distribution of the funds of the Commonwealth's Bank, that each county may have their due proportion of the same located therein.

Which bills were severally received and read the first time, and the first, second and third bills ordered to be read a second time.

It was then moved and seconded to postpone the consideration of the fourth bill until the first day of June next.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Yancey and J. G. Hardin, were as follows, viz:

Yeas— Mr. Speaker, messrs. Alexander, Allen, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, W. O. Butler, Calhoun, Catlett, Cockerill, Cogswell, Cooper, Cosby, Cowan, Crawford, Davis, Dejarnett, Fletcher, Green, M. Hardin, Howard, Hughes, Jackman, Johnson, Lecompte, Lockett, Logan, Love, Luckett, B. Mason, J. Mason, May, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Moore, Mullens, Munford, Murray, Noland, Payne, Pearcy, Pendleton, Pope, Rudd, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Witherspoon, Yantis & Younger—68.

Nays—Messrs. J. S. Anderson, A. Butler, Craig, Cravens, Desha, Duncan, Eaves, Gaither, Goode, Gordon,

Griffith, J. G. Hardin, Herald, Inglish, Kincheloe, King, Litton, Lynch, M'Clanahan, Miller, Patterson, Sandford, Selby, Stone of Wayne, Stratton, Wiley, Worthington & Yancey—28.

The speaker laid before the house a letter from the President of the Bank of the Commonwealth of Kentucky, enclosing a copy of the correspondence required by the resolution of this house of the 22d instant, which was read as follows, to wit.

BANK OF THE COMMONWEALTH, Oct. 25th, 1821.

SIR,

In obedience to the resolution of the House of Representatives of 22d inst. I herewith transmit a copy of the correspondence between this bank and the President and Directors of the Bank of Kentucky, relative to the mutual exchange and receipt of the notes of the said Banks, and the proceedings of this bank in relation thereto.

I have the honor to be,
With great respect,
Your Ob't. Serv't.
J. J. CRITTENDEN, P. B. C. K.

THE HON. GEORGE C. THOMPSON,
*Speaker House Representatives,*

FRANKFORT, MAY 1st. 1821.

JOHN HARVIE, ESQ,

SIR—Considerations of official duty, and the public convenience and interest, combined with the sincerest sentiments of personal regard and respect for yourself and the directory of the Bank of Kentucky, have made the managers of the Bank of the Commonwealth, earnestly solicitous that the relations and operations of the two banks should be as amicable and harmonious as possible. We feel assured that the same sentiments will be felt and cultivated by you and your board. Collisions between the two institutions must be productive of many evils and of much public discontent; and it will be very difficult, we believe, for any one to shew the advantages which are to be derived from a state of controversy. It is true also, that between such institutions, distrust or any operation on the part of either, tending to, or having the effect of discrediting the paper of the other, must create a sort of opposition and controversy, no matter what may be the personal wishes or sentiments of their respective managers.

We hope that in the operations of our two banks, all cause of jealousy and controversy may be avoided. Both have derived their existence from the same authority, and from the same mo-

tives of public policy. In the one, the state is exclusively interested, and in the other, very largely. The state in effect, manages both institutions. With all these common and kindred qualities, pointing and inviting to concord and co-operation, it will seem strange if controversy and hostility should arise. But I do not intend to detain you with general observations. We wish to consider the Bank of Kentucky as most highly to be favoured in all our transactions; to give to her all the aid, favour and support which it may be in our power to render.—But on the other hand we must expect her friendship and support—that is, we expect her, and all her branches, to receive our paper in payment of all debts due them—to give it full credit and free circulation. If the Bank of Kentucky will do this, I will venture to say, that there is nothing we can possibly do, that we will not do to requite her. We will leave with her any moneys that have been deposited for the state, and which we might demand to have transferred to our bank. We will at any time make exchanges of paper with her—we will do every thing which she ought to ask, or we ought to do. But we cannot do this, if the receipt of our paper in your bank, is to be limited, and applied in payment, merely to the amount of debt you owe us. Such an arrangement would give no credit to our paper, and would be altogether favourable to you. We should expect and hope, that our paper be received and credited, and used for all your purposes, and not be limited and confined to partial and specific purposes. I do not know that we should ask you to receive it in general deposit, but we should expect every thing else.

You are preparing for specie payments. There appear to us two modes of doing this—calling upon your debtors, and exacting payment in specie or your notes exclusively. This is the most summary, if your calls should be complied with; but is the harsher mode, and somewhat doubtful in its result. The other mode is, to give credit to our paper, and thereby place it upon an equality with your own—receive it in payment of all debts due you—retain all your own paper which you may receive, and discount upon ours so far as we may not be able to make exchanges for it. This latter course, it seems to us, would remove all obstructions to the harmony of our relations with each other; would be a great relief to the community; and would lead you, with perhaps a somewhat slower pace, but with equal certainty, to the situation you wish to attain.

I have not been specially authorized by our board to write you this letter, or to make any positive stipulations. I attempted on yesterday, to assemble the Directors of this bank, and failed in the attempt. From conversations that have several times passed between us on the subject, I entertain no doubt, but that all I have said will be concurred in and sanctioned by them. I mention this, that you may not consider me as presuming to have au

thority to bind our board by any thing I have written; although I have every reason to believe they will confirm it all. And if it should by possibility happen otherwise, your board can retract any conclusions they may have founded upon the expectation of such a confirmation.

Understanding that on this day your board would discuss and probably settle the question, whether you would receive the paper of this bank, and to what extent, I was anxious before that interesting question was decided, that your board should be informed of our views and wishes on the subject; and that we may not appear to have been wanting in any effort that it was in our power to make to conciliate the interests, and establish the harmony of the two institutions. What I have hastily written, though I am conscious that in matter and manner, it is by no means worthy of the subject, will suffice to give your board a general idea of our purposes, our hopes, and above all of our friendly and conciliatory dispositions.

We hope that the questions relative to your receipt of our paper may be settled at once, and that you will have the goodness to notify us of the result. I believe if our board were assembled they would say no more on the subject than I have done.

I am very respectfully,
Your obedient servant.
J. J. CRITTENDEN, *Pres't.*

JOHN HARVIE, *Pres't.*

*Copy of Mr. Harvie's letter in answer to the foregoing.*

BANK OF KENTUCKY, MAY 2d. 1821.

DEAR SIR,

It affords me unfeigned satisfaction to have it in my power to give an early response to your communication of yesterday morning. The subject to which it relates, is one of vital importance to both institutions, and to which the public attention has been attracted for some time past with unusual anxiety. It is becoming, that the relations in which the two banks are to stand each towards the other, shall be publicly known and understood, at the time when one of them is on the point of throwing into circulation a large amount of paper. With that view, the President and Directors of this institution entered into a resolution some time since, to decide the question of the reception of the paper of your bank in payment of debts due to it, on yesterday. The accompanying resolutions evince the result of their deliberations.—I trust they are of that liberal and expanded character as to insure the harmony and co-operation between the two institutions, which seems to be so earnestly desired on the part of yourself and colleagues in office. It is unnecessary to dilate upon the advantages that must mutually arise from the preservation of friend-

ly relations between the two institutions. Yourself, and those acting in co-operation with you, appear from the terms of your letter to be thoroughly impressed with a sense of the importance of such a state of things. The amount of your paper authorized to be received by the Bank of Kentucky and its departments, is so considerable as to impart to it for a long time, all the credit and currency which can be derived from the mere circumstance of that paper being honored by this institution. That your respectable directory may conceive these resolutions in the spirit in which they have been dictated, and enter into an arrangement assuredly not prejudicial to the interests of your institution; calculated to prevent and smother all that confusion and excitement which might be engendered by a state of rivalry, competition and clashing between the two banks, is the sincere wish of one who holds yourself and your brother directors in the highest personal respect and good will.

Very respectfully,

J. HARVIE, *Pres't.*

P. S. It is to be remarked, that independent and exclusive of the amount to be received in conformity to the resolutions now transmitted, the board have determined to authorize the endorsement that the paper of either bank will be received in discharge of all executions recently issued (or which are now issuable) on behalf of this institution. With respect to the business of the branches, the endorsement will, or will not be made, according to the discretion of those having the immediate management of those branches.

JONH HARVIE, *Pres't.*

*Copy of the resolutions accompanying the foregoing letter.*

At a meeting of the board of directors of the Bank of Kentucky on Tuesday April 27th, 1821, the following resolutions were passed.

*Resolved*, That the branches have permission to receive $150,000 of the Bank of the Commonwealth in payment of discounts and calls, to be apportioned among them according to the amount of their bills receivable, and that the Cashier of this bank be directed to receive that paper in payment of calls and discounts, until the further order of this board.

*Resolved*, That the foregoing resolution shall take effect only on the condition that the directory of the Bank of the Commonwealth shall agree, that the several amounts for which she may be authorized to call on the Bank of Kentucky, shall remain in the latter institution to be discharged by the paper of that bank, which shall be collected under the several orders of this board; and that they shall agree at all times to exchange such paper of the Bank of Kentucky as they may receive, for their own paper received by the Bank of Kentucky.

R. WILKINSON, *Clerk.*

N.

*Copy of a letter from the President of the Bank of the Commonwealth to the President of the Bank of Kentucky.*

BANK OF THE COMMONWEALTH, May 10th, 1821.

JOHN HARVIE Esq.

I send you herewith certain resolutions which have been adopted by the Directors of this Bank upon the subject of its relations with the Bank of Kentucky. and also a communication in writing which has been prepared by their order for the purpose of explaining and developing to your board the motives and reasons by which they have been influenced in the adoption of those resolutions. We are anxious to know as speedily as possible, the final determination of your board on this interesting subject.

I will only add an expression of my earnest wish, that some arrangement may be made between the two banks, that may be equal, just, amicable, and satisfactory to both, and promotive of their common interest.

I am with great respect your ob't serv't.

J. J. CRITTENDEN.

JOHN HARVIE Pres't. B. K.

*Copy of the Resolutions and Communication transmitted with the foregoing letter.*

At a meeting of the board of directors of the Bank of the Commonwealth of Kentucky, on Friday the 4th May, 1821, the following resolutions were adopted:

*Resolved*, That this bank ought to form no arrangement with the Bank of Kentucky which is not entirely reciprocal.

*Resolved*, That the propositions made to this directory by that institution, are not reciprocal, and ought to be rejected.

*Resolved*, That in case the Bank of Kentucky will direct the Cashiers of their principal bank and branches, to receive the paper of this institution in all payments, on the same footing as their own, the Cashiers of this bank and branches shall be instructed to retain, circulate or exchange their paper for the paper of this bank, as the directors of that institution may think proper.

*Resolved*, That this directory believe the partial reception of their paper by the Bank of Kentucky. more injurious to the interests of this bank, than its total rejection.

BANK OF THE COMMONWEALTH OF KENTUCKY, MAY 10 1821.

The President and Directors of the Bank of the Commonwealth of Kentucky, feel unwilling to communicate to the board of Directors of the Bank of Kentucky, the enclosed resolutions, without developing the views which brought them to conclusions so different from those, on which the resolutions of the latter were predicated. Uniting, as they do most cordially, in the feel-

ings indicated by the President in his letter to this board, and fostering the same spirit which we are assured by him, dictated the resolutions transmitted—we deeply regret that we cannot consider them as being of "a character to ensure harmony and co operation between the two institutions"—nor as "calculated to prevent and smother all that confusion and excitement, which might be engendered by a state of rivalry, competition, and clashing between the two Banks."

We hoped, as the institutions had a common origin, and were subject to a common control, in the legislative will and equally depended on legal constraint and popular consent for the support and the circulation of their paper, that the policy pursued by either would have been compatible with the interest of the other, and that of both, would have been dictated with a view to the interest of the community.—This seems to have been the expectation of the Legislature; founded probably upon the readiness with which the Bank of Kentucky has heretofore promoted its views of the public interest: For that the policy which actuated the Directors of the Bank of Kentucky, to suspend specie payment and increase the circulating medium, was dictated by the Legislature, is evidenced by the immediate support which was given to the measure by statutory provisions. That this course continued to obtain the public approbation, was evinced by the continuance of the charter of the Bank of Ky. at the last Session of the Legislature, and in the creation of the Bank of the Commonwealth for the express purpose of increasing the local circulating medium as a measure of relief to the community. On a supposition then, that a similar policy would prevail in both institutions, the same protection was afforded to each by the Legislature against the attempts of foreign institutions, and individuals entertaining foreign feelings; the same provisions to compel the reception of the paper of both obtained in the execution laws; and all the channels through which the public money flows were opened to both, to afford every facility to the free circulation of their paper. From these circumstances, it is evident that the last Legislature. not only intended to maintain, but to increase the local currency and still adhered to the policy begun by the Bank of Kentucky, under the auspices of former legislatures. It is also evident that by extending the same guardian care to both institutions and putting them on an equal footing in its protecting laws, the legislature anticipated that there would exist a co-operation between the banks, in the promotion of those objects which had thus received its sanction. The legislature could not surely have anticipated that the Bank of Kentucky, while it enjoyed immunities at its hands which contributed to sustain its credit, would exert that credit to counteract those purposes, to promote which, those immunities were given. Could it have been anticipated, that the Bank of Kentucky would refuse

to receive the paper of the Bank of the Commonwealth, when the charter of the latter institution contained provisions intended expressly to sustain the credit of the Bank of Kentucky, and is constrained thereby to receive its paper, when all the various fountains from which the means of the Bank of the Commonwealth are to flow, are opened, and a fresh impetus given to the paper of the Bank of Kentucky, impelling it through new channels of circulation to satisfy increased demands for it? From this cause alone, it is, that the paper of the Bank of Kentucky, was continued as an adequate tender in discharge of the public taxes, and for all the moneys received in the public treasury. For if it had been conceived, that the Bank of the Commonwealth would have had occasion to reject the paper of the Bank of Kentucky as a measure of retaliation, it would not have been received in payment in that office, whence its stock is derived. It is true, that it was not thought fit to introduce into the renewed charter of the Bank of Kentucky, a reciprocal provision compelling the reception of the paper of the Bank of the Commonwealth. But this was only pretermitted because it would not be competent for the legislature, as individuals own stock in the Bank of Kentucky, to make the paper of the Bank of the Commonwealth, an absolute tender in discharge of debts due them. But can it be doubted, that so far as the state has an interest in that bank, it was intended there should be a perfect community between that interest, and its interest in the Bank of the Commonwealth; particularly when the former is made a part of the basis which is to support the institution itself? Can it be doubted, that the state would have the superior influence, which she reserved to herself in the Bank of Kentucky, exerted for the preservation of her common interest in both banks? Can it be doubted, that the legislature invested the Bank of Kentucky, with privileges and advantages contrary to the received maxims of such institutions, and which were not contemplated in its charter, but with the expectation that the powers obtained from those prerogatives, would be used to support the measures made necessary by the exigencies of the country? Suppositions to the contrary would involve the absurdity that her influence in one bank which grew out of her capital in it, should be exerted to prejudice her interest in the other, and that she would provide the private stockholders of the Bank of Kentucky, with arms and armour from the public arsenal, to be used in a warfare against the Bank of the Commonwealth; which, if successful, must result in a depreciation of the paper of that institution; and of course in the sacrifice of the state stock in the Bank of Kentucky? That the measures which are indicated by the resolutions transmitted to this Bank, will have a tendency to produce this state of things, is evidenced to us, by considerations which we submit to the examination of the Directors of the Bank of Kentucky, in the hope, that if they should result in similar opin-

tions, they may yet restore mutual confidence, and produce co-operation between the two institutions; if not, they will at least afford a proof to the President and Directors of the Bank of Kentucky, that their overtures have not been rejected from wanton caprice, nor from fastidious sensibility about a barren point of honor.

The proposal on the part of the Bank of Kentucky requires, that the Bank of the Commonwealth shall yield up the several amounts which it shall have authority to demand from the former institution without any equivalent being immediately furnished therefor, and that all the paper of the Bank of Kentucky received by the Bank of the Commonwealth, shall be retained for the purpose of being restored in the way of exchange. After performing the precedent condition as an earnest of a willingness to perform the subsequent stipulations, the Bank of the Commonwealth is requited by an agreement on the part of the Bank of Kentucky to "permit its branches to receive $150,000 of its paper in payment of discounts and calls," and to direct the Cashier of the Bank of Kentucky to receive it in similar payments until the *further order* of the board. It was evidently the intention of the President and Directors of the Bank of Kentucky, that at least so much of the paper of the Bank of the Commonwealth should be received, as would discharge the amount of the claim yielded by the latter to the former: But yet the written proposition of the Bank of Kentucky does not oblige it so far. It stipulates that the branches have permission to receive $ 150,000, but they may in their discretion refuse to receive a dollar. The Cashier of the principal Bank is to be directed to receive the paper of the Bank of the Commonwealth until *otherwise ordered* by the board, which might happen, without impugning the letter of the agreement, at the next succeeding discount day. This scrutiny of the propositions of the Bank of Kentucky, is made to shew, how little could be demanded as a matter of right of that Bank after a full performance of the strict requisitions imposed by your resolutions upon the Bank of the Commonwealth. For a more satisfactory result we could safely rely upon the interpretation which the liberality of the board of the Bank of Kentucky would give them. Depending on that resource we would confidently expect, that their several portions of the $150,000 would be received by the respective branches, and that the principal bank would continue to receive indefinitely, the paper of the Bank of the Commonwealth in payment of discounts and calls. Yet the utmost that can be made of the terms offered to this bank is a partial reception of its paper, under certain restrictions, in return for an unreserved surrender of part of its capital, and an unlimited reception of the paper of the Bank of Kentucky, by all the various avenues through which its stock, calls and profits shall be received, coupled with an agreement, not to use it but to

lock it up for the benefit of the Bank whence it issued.—These terms are so far from being reciprocal, that it is evident, if assented to, a great inequality in the value of the paper of the two Banks, must be the result. The Debtors of the Bank of Kentucky will not know how soon the accumulation of the paper of the Bank of the Commonwealth in the various branches, will attain the point to which it is limited. They will not of course know how long it will answer the purposes of paying their calls and discounts. Thus its circulation will be impeded even before it is rejected by the branches The principal Bank and branches, by refusing to receive it in payment when voluntarily tendered in discharge of debts due that institution, will degrade the paper below that of individual debtors, and will at once discredit it by closing the channels of circulation and by evincing a distrust of its ultimate value. To give a formal assent by stipulation to such measures would, in the opinion of this board. be but making a solemn declaration of their willingness that the institution over which they presided should be disgraced. Conceiving then that a partial rejection of the paper would under present circumstances, have the effect to depreciate it below the paper of the Bank of Kentucky, and believing that a total rejection could do no more, they are unwilling to make the concessions required; and they feel their reluctance increased by the consideration, that they must be attended by the humiliation of signifying their consent by compact to such a result.

The President and Directors of the Bank of the Commonwealth, are satisfied however, that an inequality in the value of the paper which alone forms the circulating medium of the country, cannot long be tolerated. The policy of the Legislature cannot permit currencies of different values to exist in the state, flowing from institutions depending on its will for their own existence. Necessity compels the admission and circulation of a currency depreciated as it respects the foreign commerce of the state; but there is no necessity which will induce the country to tolerate a local currency, mutable, unequal, and uncertain in its application to what may be called domestic purposes. To this circumstance is attributable the repeal of the Independent Banks; and the two state institutions must, therefore, expect that in the exercise of its superintending care, the Legislature will either produce so perfect a communication between them as that the currency of each shall attain the same level, or by stopping one of the fountains, derive the whole from a single source: It is, however, greatly to be desired, that the continuance of both institutions may be found compatible. The creation of the Bank of the Commonwealth was deemed essential to the relief of the community; the commencement of its operations for that purpose, has rendered its continuance for the same object the more necessary, indeed absolutely indispensible. The continuance of

the Bank of Kentucky with a view to prevent the pressure which would have resulted from the close of the institution, was thought a salutary measure, and the same considerations render it still proper. But if a termination of the existence of one institution becomes inevitable, the pressure which must ensue, will be provided against by a property law, or a replevin law, which will coerce the reception of the paper of the surviving institution in payment. Resorts of this kind are surely to be deprecated, and it would be fortunate for the interest of the community, if collisson between the Banks could be prevented and all legislative interposition avoided. If it should be deemed necessary by the Legislature, that the local banks should pay specie within a definite period, then indeed Legislative interposition will become necessary to afford the means to the Bank of the Commonwealth. And it is believed by the Directors of this institution, when public policy shall demand it, that measure may be effected. For, by throwing the public lands into market, and by increasing in a slight degree the stated calls on the notes of individuals, the amount of its paper in circulation would be so reduced in eighteen months as to enable the Legislature, by negociating a loan, to obtain specie sufficient to circulate the balance. The resumption of specie payment by the Bank of Kentucky, it is believed, cannot take place unless countenanced by the Legislature ; and it will surely be the object of that body, to take such steps as will make that movement, whenever practicable, simultaneous on the part of both Banks In the interim, the Bank of the Commonwealth must rely for support upon the people, who have yet confidence enough in their government to rely in turn upon the public faith, the public domain, and the public revenue, which are all the securities a state can pledge. But if the resumption of specie payment be thought practicable to the Bank of Kentucky at an early day, and but visionary theory on our part however far we look down the vista of futurity—if the Directors of that Bank from a more intimate acquaintance with it, know of secret resources which will enable it to supply the immense drain of specie which debts abroad will continue to draw from the state, and the Legislature and the public are to be suddenly supprised by the exhibition of a modern phenomenon almost equal to the miracle of the Widow's cruise of Oil; it will still be a question under this worst aspect of the Bank of the Commonwealth, and fairest and most flattering for the Bank of Kentucky, whether it will not best promote the objects of the latter to receive the paper of the former without, rather than with limitations. So long as the paper of the Bank of the Commonwealth receives the support of the Legislature and is honored by the Bank of Kentucky, the great creditor of the community, it will be in the power of the latter to transfer the surplus of our paper which it may have, beyond the amount necessary to exchange with us, to

the hands of safe individuals upon loans. In the mean time, you will receive for your calls and discounts, a due proportion of your own paper in common with ours, and the Bank of the Commonwealth and all its branches will be so many points of attraction to draw together masses of your paper which will be thus restored to your bank. If, on the contrary, you receive the paper of the Bank of the Commonwealth only in calls and discounts, the public will pay you only in that sort of paper, and individuals will hoard your paper to command the specie upon your contemplated resumption, and the Bank of the Commonwealth itself might prefer making exchanges of your paper with such individuals, rather than with you, with a view to thwart purposes which you shall have made to militate against the credit of her paper.

Entertaining, as we do, sincere wishes for the prosperity of the Bank of Kentucky, we trust it will not be considered that we have offered any observations for the insidious purpose of advancing the interest of our own, at the expence of your institution. We declare with frankness and candour, that we believe the course we propose will be most salutary for both institutions and for the community. We are sure that it will meet with the approbation of the people. We believe the other would not; for indeed, under the circumstances in which you seem disposed to place your institution, its existence will only be evidenced by reiterated calls, which will sound like the peals of a funeral bell in the ears of a sick community, while on the contrary by lending the paper of the Bank of the Commonwealth which you may have to dispose of, you will profit by continuing the ordinary business of a bank and may administer relief to some, who would perish without your aid.

*Bank of the Commonwealth May 10th*, 1821.

At a meeting of the board of Directors of the Bank of the Commonwealth, on Friday the 25th May, 1821,

The President laid before the board, several resolutions of the Bank of Kentucky, concerning the reception of the paper of this bank, accompanied with an exposition which were read as follows:

BANK OF KENTUCKY, May 18th, 1821.

My Dear Sir,

The President and Directors of the Bank of Kentucky, sincerely anxious to maintain a friendly intercousre with the Bank of the Commonwealth. have essayed once more to pursue such course as to the reception of the paper of that institution, as will be satisfactory to those in the management of its concerns. The inclosed resolutions disclose the extent they are prepared and determined to go for the promotion of an object, alike desirable, and perhaps equally beneficial to the two institutions. The

communication which accompanies these resolutions, develops the views of this board as to the fundamental and future policy of the Bank of Kentucky, and touches upon the topics introduced by your board into the discussion of this interesting subject. It was conceived to be due, not less to your institution, than to the character and standing of ours, to be frank, communicative and explicit, upon an occasion of such moment. We have, therefore, been truly so; and I trust, that the freedom and confidence with which we have bared ourselves to the view of your directory, is an adequate earnest of our deeply rooted spirit of conciliation; and that it may bring about the happy result of a most cordial understanding and agreement, between the two banks. It is superfluous, and therefore I shall not essay it, to proffer any renewed assurances of my high and personal regard for yourself and coadjutors in office. A speedy communication gf the final decision of your board, upon the resolutions herewith transmitted, is respectfully invited.

Very respectfully,
J. HARVIE, *Pres't.*

*Copy of the Resolutions transmitted with the foregoing Letter.*

At a meeting of the Board of Directors of the Bank of Kentucky, on Friday May 11th, 1821, the following resolutions were adopted:

*Resolved*, That in any arrange ment made by the President and Directors of the Bank of Kentucky with the President and Directors of the Bank of the Commonwealth of Kentucky, the former desire it only on principles of reciprocity, and a just regard to the interest of the institution.

*Resolved*, That this board will instruct its Cashier, to receive the notes of the Bank of the Commonwealth of Kentucky, and its branches, in the payment of all debts generally: *Provided*, the President and Directors of the Bank of the Commonwealth of Kentucky, shall agree, that the several amounts for which they may be authorized to call on the Bank of Kentucky, shall be held up to be discharged in the paper of that institution, which shall be collected under the several orders of this board: *And provided also*, That this board expressly reserves to itself the right of prescribing or recommending to its branches, such course as they may think best calculated to promote the interest of the institution in relation to the receipt of that paper.

R. WILKINSON, *Clerk.*

O.

*Copy of an exposition accompanying the foregoing Letter and Resolutions.*

The President and Directors of the Bank of Kentucky have received the resolutions adopted on the 4th inst. by the President and Directors of the Bank of the Commonwealth, responsive to their resolutions of the 1st instant, and an accompanying exposition of the sentiments and motives which induced those resolves. To the reasoning and decisions contained in the communication, the President and Directors of the Bank of Kentucky, have given that candid and deliberate consideration which is due to their authors and to the topics discussed. They cordially reciprocate the proposition avowed in your first resolution, and deduce their ultimate determination as a corollary from the principle it establishes. Reciprocal benefits are the only rational and rightful results of independent negotiation. No individual, no corporation, ought to be required to perform or sanction an act, destructive of the rights and interests of the party constrained. Compacts to be durable, should be just; to be just, they must be equal; and to be equal, they must regard the ends to be accomplished. It is fairly presumable, that each party is the most competent judge of the fitness of the means to effect the end it proposes; and the freedom of choice, exercised in the selection of measures conducing to the attainment of legitimate objects, can never dissatisfy a liberal mind, by the rejection of terms considered injurious in their practical results to the party declining to accede to them. Guided as the directors of the respective banks are, by an honest zeal faithfully to fulfil their official duties, and a disinterested desire to promote the public weal, whatever may be the diversities of opinion which disunite their efforts, it is hoped they will attain, by varying modes, one common object: It is believed they will not cease to tolerate the decisions of each other, while they continue to assert and to exercise the dignified prerogative of free deliberaton.

The Bank of Kentucky is an institution of long duration, and complicated interests. For a series of years, it has been found adequate to sustain the fiscal operations of the government, and to furnish a circulating medium for the state. Its peculiar organization—its two-fold government—its multifarious relations, and diffusive operations, have interwoven its concerns with all the ramifications of society, and intimately connected its prosperity with that of the whole community. Abruptly to change the settled course, or materially to modify the established usages of a moned corporation so deep in its foundations, and so broad in its extension, could not fail to produce consequences, whether good or ill, of vast extent and minute application.

The Bank of the Commonwealth, is an institution, not only new, but novel: Single in its conformation, in its government, means

and interest, entire and indivisible; directed to the attainment of a single object, and supported by the force of popular approbation; its energies are powerful; its influence immense. Still, the final result of this bold experiment, whose magnitude alone might array it with commanding aspect, from the influence of causes immutably fixed in the nature of things, must be regarded as problematical.

What is the present condition and incumbent duty of the Bank of Kentucky? It is not our design to animadvert on the considerations and causes which led to the suspension of specie payments in this institution, for the purpose either of censure or applause. Sufficient for the day is the evil thereof. Whether the existing state of our pecuniary affairs, was induced by mistaken choice, or obtruded by imperious necessity; all must feel and acknowledge, that it is humiliating and disastrous in the extreme.

Gold and Silver possess no intrinsic value. For obvious reasons, however, mankind, by convention, has made them the universal representative of value. Bank paper in itself is valuless. It is at best but the representative of that which represents value.—Now the excellence of all representation, is its fidelity. Whenever, therefore, bank paper ceases to be convertible into gold and silver, its depreciation is inevitable. The scale of depreciation will always be graduated by the public confidence in the probity and solvency of the bank refusing to meet its engagements.—When the suspension of specie payments is consequent on national dangers, neither eminent nor permanent, and by general concert the act is simultaneous, the credit of paper issued by institutions, in the prudence and honesty of whose directors, confidence is reposed, will be but little impaired. But a bank that in a season of profound tranquility and while surrounding institutions of a similar nature, continue true to their engagements, shuts up its vaults and makes no efforts to re-open them, surely can neither hope for nor deserve the indulgence of mankind. In a case of general suspension, those banks which shall be found most tardy in resuming payment, will suffer most in credit; and will continue to decline with accelerating speed in character and usefulness, in exact proportion to the continuance of such delays. In the instance of a bank persisting in its refusal to redeem its notes after the general resumption of specie payments, two inferences only are allowable: Either that such bank cannot, or will not, make payment. In both instances the consequences are fatal. The notes of this bank in a period of sixteen months, since the last suspension, have sunk in estimated value, more than one-fourth.—During the recent portions of that time, the series of depreciation has been in a Geometrical ratio. It is still in progression, and if efficient measures cannot be devised to arrest this alarming and disgraceful declension, the future credit of the paper, instead of be-

ing fixed by logical induction, will become an ascertainment merely of arithmetical calculation.

If it be said, that the value of the paper has not diminished, and the difference between it and Eastern funds, is but the difference of exchange, we are constrained to declare that the argument is fallacious. Correctly to ascertain the price of exchange, is to estimate the difference in the value of gold and silver at the *different* places. If Specie be sold here for notes of the Bank of Kentucky at an advance of twenty eight per centum, and bills of exchange on the Atlantic cities, to be paid in specie, at an advance of thirty per centum, is it not too obvious to admit of controversy, that the difference of exchange is two per centum and the depreciation twenty eight ?

What are the causes of a depression, so rapid and so great? Will any inquiring and impartial man pretend, that since the stoppage of payment nearly one third of the resources of this institusion have been wasted or impaired ? Can any individual in the exercise of common charity indulge the supposition that it is either the wish, or the aim of its managers,to defraud the public ? Who doubts the ability of the bank from its cash on hand and the proceeds of the enormous debt due to it, to pay the whole of its notes in circulation in gold and silver, at some future day ? No one. But yet the fact is as indubitable as lamentable, that the estimated value of the notes has greatly decreased. Why is it thus? Because the genius of man, all glorious inventive as it is, cannot contravene the order of providence. Nature has ordained that whatever is valuable shall be difficult of attainment ; and we cannot but hail it as a merciful dispensation, when we recollect that idleness and vice are inseparable companions. No man was ever great without exertion. No community was ever rich without labour. The industry of a nation, is its only lasting wealth—and deplorable indeed must be the condition of that deluded people, that in the hour of adversity is tempted to mitigate the severity of present suffering by a rash alienation of the undecaying inheritance of independence. It has been said that there is no royal road to learning. It is a truth equally emphatic, that no national avenue to wealth can be opened, but by the patience, and the toil, and the sweat of the citizen. Neither the wisdom of the sage, nor the craft of the politician—neither the silent endurance of confiding patriotism, nor the authoritative mandate of Legislative enactment, can impart a real and abiding value, where the iron hand of industry has not impressed its seal. Hence the impotency of all attempts to maintain the credit of a paper currency unsupported by a metallic basis.

A declining currency is one of the severest calamities that can befal a country. It drives every medium of greater value out of circulation, deranges the relative value of commodities, and falls with most afflictive pressure on the indigent, and uninform-

ed. Witness the effects in the case before us. The specie of the country, invariably hoarded by those who do not employ it as an article of extensive traffic, is as little conducive to the general prosperity, as if it were buried in the mines, from which it was dug; while the only attainable substitute is bought and sold, received and disbursed in the ordinary transactions of business at a price perpetually varying according to the degree of faith which is reposed in its final convertibility into cash, and the expectations that are entertained of the nearness or distance of that epoch. In the mean time, the capital of the state invested in its bank stock, is gradually wasting away. The private stockholder who confided his fortune to the control of the official financiers of the Commonwealth, by this sad reverse, is reduced from opulence to want—and the poor man finds his labour requited by that which will not buy him bread. The meritorious citizen whose misfortunes have made him a debtor, is doomed to sit down in forlorn destitution, and behold the humble fragments of prosperous days, scattered by the strong arm of law to satiate the appetite of unsparing avarice. Amid this scene of decaying grandeur and accumulating wretchedness, shall any institution created by the public will for the people's good, however gifted and endowed, presume to rear its crest above the majesty of the laws, and provide itself, "with arms and armour, from the public arsenal, to be used in a warfare," against the community itself? Why shall the Bank of Kentucky be the only debtor in the land, fit to be exempted by a patent of nobility from the payment of her debts? She issued her notes and they were received as cash. Why shall every individual who now holds them, be subjected to a loss of a fourth, a third, or a half of their original value? Or has it been reserved for the happy age in which we live to give birth to a new system of political alchymy—"the chief defence of nations" by which the Legislature and the public, are to be suddenly surprised by the exhibition of a "modern phenomenon" more wondrous even than the miracle of the Widow's cruise. In our present diseased condition, every mere palliative renders the malady more incurable. How cruel is that physician—nay more, how faithless, who shrinks from the application of the amputating knife, and gazes in stupid horror, on the uplifted scythe of death!

The President and Directors of the Bank of Kentucky can find no apology, if one were desired, for longer postponing preparations for the resumption of specie payments. This can be effected only by making calls on the debtors. That these may not be oppressive, they must be small. Hence the necessity of desisting from any further issues of her paper. Hence the impolicy of receiving the paper of any other bank, beyond the amount of current expenses and the various governmental demands; which

can neither redeem its notes in specie, nor give in exchange for them the notes of this institution.

What is the present condition and rational expectancy of the Bank of the Commonwealth? The amount of notes which by law it is authorised to issue, is three millions of dollars, and of that sum, two millions five hundred thousand dollars may be thrown into circulation in the course of a few months. What available funds have you now, or will you have in any reasonable time, to support this excessive issue? The Treasurer's deposit in this bank —the dividend on the state stock due in July, & the tax; in all not much exceeding one hundred thousand dollars. These several amounts are payable in the paper of this bank. Now, if the paper of the Bank of Kentucky cannot support itself, surely it cannot support the paper of the Commonwealth's Bank; if it could, the amount receivable bears no adequate proportion to the amount of notes which you are authorised to circulate. But you are entitled to receive the annual surplus of the accruing revenue. True, it can scarcely be necessary; however, to remind you, that this surplus will not only be inconsiderable, but must consist of the paper of the two banks. What remains? The state stock itself— the interest on which necessarily ceases when the capital is withdrawn, which capital may be paid in your own notes, the faith of the state, and the proceeds of the public lands. Far be it from us, to insinuate or imagine, that a pledge so sacred as the honour of this magnanimous and high minded community is undeserving of all confidence and respect. But it will not be forgotten that mere promises, however sincerely made and with whatsoever solemnity recorded, can never pay a debt. It must therefore be on the proceeds arising from the sale of the public lands, that you repose any near or stable hope for the redemption of your notes. We do not intend to say that this is an inadequate resource; but of this we are convinced, that the credit of your paper will be in the inverse ratio of the distance of time at which such proceeds are to be realised. When this event will happen, is not easily ascertainable; and if the reasoning employed in the preceding pages is entitled to just consideration, it will appear abundantly evident that the very uncertainty which attends all inquiries concerning this subject, cannot fail to contribute to the deterioration of the bank. It is undeniable then, that the Bank of the Commonwealth cannot pay specie *soon*, and it is uncertain *when* she can pay it.

Not so with the bank of Kentucky.—Her existing resources are considerable. The public is fully apprised by reports sanctioned by legislative scrutiny, of the amount of her cash on hand and notes in circulation. It is a task of simple computation to ascertain the amount of the latter, it will be necessary to call in, prior to a resumption of specie payments. This accumulation of her own paper is to be effected by calls on her debtors, and by an

exchange of paper with the institution over which you preside. To call in a part of the notes of this bank, cannot be oppressive, because the paper of the new bank will supply the place of the currency so withdrawn, and furnish even an increased circulation. Nor ought the President and directors of the Bank of the Commonwealth to object to this interchange as an exclusive measure, because the credit and facilities afforded by the reception of her notes in this institution to the extent of the demands existing against it, is an ample equivalent for the temporary suspension of such demands. Is not the equality of the notes of the respective banks thus established, an acquisition worth the acceptance of your board? If not, why the solicitude so palpable in your communication, that the notes should be received at this bank? Why an effort so elaborate to prove, that a refusal on her part to take it, is an act of hostility against the spirit and interest of the law of your incorporation? We confess that we were not prepared to expect from you the course of reasoning which seems to have conducted to this conclusion. It presupposes that the countenance and support of this bank are essential to the credit and currency of your paper, and that the legislature in erecting this temple of relief, relied rather on the adventitious props furnished by the Bank of Kentucky, than upon the solidity of its own base, or the strength of its superstructure. If this method of reasoning be correct, how can it be a source of astonishment that this institution should receive with circumspection bank paper deriving its value mainly from such reception; and that she should be unwilling to lavish her declining credit on an institution confessedly incapable of sustaining itself? We had supposed that those in the conduct of the Bank of the Commonwealth would have been the last to acknowledge so humiliating a dependance, and we reject the inference as unworthy of Legislative forecast.

It is the duty and the interest of all banks to pay cash for their notes on presentation. Any other rule of general adoption and durable continuance, by rendering these otherwise salutary institutions a curse to society, must lead to their destruction. The bank of Kentucky can comply with this rule at no distant day.—The bank of the Commonwealth may conform to it, but at a period somewhat more distant. If a part of the circulating medium of the state *must* be inferior to gold and silver for a limited time, is it either politic or just, that the *whole* circulating medium of such a state, *shall* be subjected, for a like time, to a similar inferiority? And can it, with the smallest propriety, be required of a bank, whose notes were issued on the faith of a specie capital, by a sister bank whose notes are circulated without any such assurance, to exchange its appropriate means for others utterly inoperative in the furtherance of an object so laudable as the extinguishment of its debts?

The beneficial results consequent on the resumption of specie payments by the bank of Kentucky, are neither few in number, nor small in magnitude. Among the most desirable may be enumerated, the restoration of confidence in the great body of the people, and the re appearance of the precious metals, which disappeared on the first alarm, created by the suspension of the bank; the immediate disposal of an immense amount of Eastern funds, now held up for still more extensive speculations on the depreciation of her paper, and a corresponding diminution of our Eastern debt; a sudden and vigorous impulse to every species of domestic industry, and foreign enterprise; and a resuscitation of public credit and private morals. These are consequences of primary importance, and cannot be inimical to any interest consistent with the public good. To effectuate these objects, we feel ourselves impelled by every consideration of public justice, and of private right. And we are satisfied that the President and Directors of the bank of the Commonwealth, would spurn the imputation that it is their wish either to arrest or impede them.

Now if the Bank of Kentucky is admonished to prepare for speedy payment by the aspect of events so gloomy and severe, and encouraged to exertion by prospects so animating and bright; and if the notes of the bank of the Commonwealth, not yet redeemable in specie, beyond the uses and extent already specified, so far from accellerating, would retard her arrival at the destined goal—yourselves being the judges, ought that reception to be unlimited? It was cause of regret, that the requirement of a general and continued reception of the notes of the bank of the Commonwealth, should have been explicitly advanced by the President of that institution in his communication of the first inst. and that it has since been peremptorily insisted on. To such a requisition of uninterrupted duration, we cannot, will not accede.—Endorsements on executions to the amount of several hundred thousand dollars, to receive the paper of the Commonwealth's bank, have been already authorized; and we shall contiuue to take as much of the paper as will not embarrass our present preparations, whether a specific arrangement be effected or not.—We ardently desire a friendly interchange of mutual favours by the institutions of which we are intrusted with the responsible control, and will make every sacrifice to ensure it, short of an abandonment of specie payments. For the present we are willing to receive a given amount of your paper. Whether that amount be received in calls and discounts only, or in unrestricted payments, is to us a matter of perfect indifference. And while the parent bank will not constrain its branches to take the paper at all, she will, in her discretion, prescribe limits to its reception, beyond which, they will not be permitted to go. We presume not to scan the things of futurity. We dare not involve ourselves by precipitate commitments. Subsequent arrangements must be regu-

fated by attending circumstances. Every thing will depend upon the credit of your paper, and over that we have no control.

We have endeavoured to shew, that the resumption of specie payments by this institution will greatly redound to the public good. By what inverted order of argument can it be maintained, that it would be disadvantageous to the proprietors of stock? The state is a large stockholder; her stock constitutes a part of the capital of the bank of the Commonwealth. But that stock is now estimated at from twenty to thirty per centum below par. It is manifest that an inevitable consequence of specie payments, would be a large appreciation of its value, and a direct augmentation of your capital, precisely equal to the aggregate amount of the difference of price.

You express your belief that the assumption of specie payments by the bank of Kentucky, cannot take place unless countenanced by the legislature, and that steps will be taken to make that movement, whenever practicable, simultaneous on the part of both banks. If this belief originates in an opinion that the legislature is adverse to specie payments, we can by no means accord with you in sentiment. If it arises from an expectation that this institution will require the immediate interposition of legislative aid, we are satisfied that you underrate her resources. She asks no other aid than that which the laws afford, in common to every citizen, and that the legislature should proceed, by partial and unequal regulations, implies a vindictive spirit of oppression, which it would be equally illiberal and unjust to attribute to that honorable body. We never will regulate our conduct by the supposition, that the legislature will perform either a weak or a wicked act.

But we are warned, that "there is no necessity which will induce the country to tolerate a local currency, mutilated, unequal and uncertain in its application to domestic purposes." and that "the legislature will either produce so perfect a communication between them, as that the currency of each shall attain the same level, or by stopping one of the fountains, derive the whole from a single source." Be it so. It is not presumable that the legislature will stop the fountain from which flow the precious metals. We look a broad over "a sick community" and behold crowds of the decrepit and diseased anxiously waiting for the rising of these healing waters. We listen to the sounds that approach us from a distance and hear "the peals of a funeral bell" rung by a power, to whose final decision, in affairs like these, we must all submit.

*Bank of Kentucky, May 18th, 1821.*

Whereupon, the President and Directors of the Bank of the Commonwealth, unanimously adopted the following preamble and resolutions, viz:

The President and Directors of the Bank of the Commonwealth of Kentucky, have felt a strong solicitude to form an arrangement

with the Bank of Kentucky, which should unite the two institutions in affording a distressed community that relief which was the grand object of the last legislature. They consider the establishment of the new bank, and the continuance of the old, designed for the accomplishment of the same object. It was expected that the new bank would furnish an additional circulating medium, and that the old bank would not make oppressive calls upon her debtors, but afford every facility within her power for giving credit and circulation to the new paper. That bank had voluntarily suspended the payment of specie and her course had been sanctioned by legislative authority, with the hope that she alone, without extrinsic aid, would be able to afford a circulating medium equal to the exigencies of the times. Although this hope was found delusive and abandoned, yet the favor of a prolonged existence and a delay of several years in paying over the state stock, was extended to that institution, under the expectation that her measures would still conform to the general policy of the country. The objects of the legislature cannot be mistaken. The immediate payment of specie by the banks in this state was not expected nor intended. Judgments had been accumulating under the operation of former laws for two years, and a flood of executions was ready to break loose during the present season, which, without legislative interference, would sweep away many of the best fortunes in the country. When measures were taken to furnish a paper currency to meet this crisis, it could not have been anticipated, that those banking institutions which had been fostered with this object, should take measures for reducing the country almost immediately to the specie standard and thereby thwarting the very policy which had given them existence and protection.

It is the opinion of the President and Directors of this bank, that both the Bank of Kentucky, and the Bank of the Commonwealth, after furnishing for the present crisis an adequate circulating medium, ought by degrees to withdraw it from circulation and cotemporaneously commence the payment of specie. By a mutual support, and the same course of policy, these institutions might accomplish the benevolent objects of the legislature, remove the necessity for further legislative interference between debtor and creditor and ultimately bring back the currency of the country to the specie standard from which it has unhappily so widely deviated. But by an interchange of opinions with the president and directors of the Bank of Kentucky, they learn with regret, that even now, in the time of the country's utmost need, when every exertion of banks and individuals is imperiously required to prevent sacrifices under those executions which are laying in bundles in every clerk's office from Sandy to the Mississippi, waiting for the impending first of July, the whole policy of the President and Directors of that institution is bent towards a reduction of their paper in circulation and the almost immediate resumption

of specie payments. They have no regard to the policy or the safety of this bank; their policy has but one point—it is entirely selfish. They will befriend a sister institution and give credit to her paper only so far as they can make her an instrument in the accomplishment of their sole object, a speedy resumption of specie payments, an object hostile to the safety of this bank and the policy which gave it existence.

It would have afforded the President & Directors of this bank, the highest pleasure, to have had a perfect community of policy with that institution; but at present, unless the views of her managers materially change, they deem such a result not only impolitic, but impracticable. Each institution must be left to its own policy. Should their views and measures unfortunately come in conflict, so that the interest of the community shall suffer thereby, a consequence which the President and Directors of this bank will use every effort to avert, it will be for the legislature and the people to prescribe such a course to both institutions, as shall be deemed consistent with the public good. Therefore,

*Resolved*, That it is inexpedient to accede to the terms proposed by the bank of Kentucky, in their resolutions of the 11th inst.

*Resolved*, That the President and Directors of this bank, will, in all their measures consult the interest and wishes of the Bank of Kentucky, so far as is consistent with the interest and honor of the institution over which they preside.

At a meeting of the board of Directors of the bank of the Commonwealth, on the 13th July, 1821,

*Ordered*, That the Cashier of this Bank, exchange the paper of the Bank of Kentucky, which may be in his hands, for the paper of the Bank of the Commonwealth of Kentucky, when application on behalf of the Bank of Kentucky, shall be made for that purpose.

*Ordered*, That the public printers forthwith print 200 copies of said letter and correspondence, for the use of the members of this house.

The speaker also laid before the house a letter from the President of the Bank of Kentucky, enclosing the letters of instruction and advice given to the different branches of said bank with regard to the reception of the notes of the Bank of the Commonwealth of Kentuck, which was received and read as follows, viz.

BANK OF KENTUCKY, October 25th, 1821.

*My dear Sir:*

IN compliance with the request contained in a resolution adopted by the house of representatives on the 22d inst. I hasten to transmit you, for the use of that body,

copies of the various orders taken by the directory here, relative to the receipt, on the part of the Bank of Kentucky, of the paper of the Bank of the Commonwealth of Kentucky; and of the letters of instruction and advice accompanying such of those orders as were transmitted to the branches.

An inspection of those orders will shew, that those anterior to the 25th May last, (with the exception of that relating to endorsements upon executions,) were merely provisional, taking effect only in case of an arrangement with the Bank of the Commonwealth of Kentucky. Those of that date and subsequently, became the rule of conduct for the government of this bank, through all the departments, and have consequently been acted on.

As a plenary discretion was delegated to the departmental directories, not only as to the reception of the paper of the other bank to the limit prescribed, but also as to the mode and manner of that reception, no official report of the way in which that discretion has been exercised, has ever been exacted of the branches, or furnished by them. I am therefore, with respect to those branches, unable to furnish the information asked for by the second member of the resolution. All that I can communicate on that head, is, that each and every of the departments report more or less of the paper of the Bank of the Commonwealth to be on hand.

With respect to the receipt of that paper at *this office*, there has been no qualification attached to it, and about one hundred thousand dollars thereof has been collected and taken in since the first of May last.

I also submit copies of a short correspondence between the president of the Winchester branch and myself, on the subject of that branch being permitted to reduce its account current with this office by a payment in Commonwealth's notes.

I am, respectfully,

J. HARVIE, *Pres't.*

*The Speaker of the House of Representatives.*

*Letter addressed to the Presidents of the Branches of the Bank of Kentucky.*

BANK OF KENTUCKY, April 14, 1821.

*Dear Sir*—The accompanying resolution will convey to you the course prescribed by the president and directors for the government of this department, in relation to such executions as are issuable upon judgments now obtained in behalf of this institution. You will perceive that the adoption of a similar course, on the part of your department, is left

to the discretion of the directory of that department. I have forwarded the resolution in *extenso*, for the purpose of shewing the views of this board upon the subject of endorsement upon executions. It is perhaps superfluous to dilate upon the policy or impolicy of this measure. I will, therefore, limit myself to the single observation, that the bank has sufficient employment for any amount of the paper of the Bank of the Commonwealth which will probably be collected in consequence of such endorsements, to screen itself from any loss that might otherwise ensue from the reception of that paper.

Very respectfully,

(Signed) J. HARVIE, *Pres't.*

## BANK OF KENTUCKY.

At a meeting of the board of directors on Friday, April 13th, 1821:

*Resolved*, That the president be requested to have the following endorsement made upon all executions issued or to be issued in favor of the bank, upon judgments now obtained: "That either notes on the Bank of Kentucky or its branches or notes on the Bank of the Commonwealth of Kentucky or its branches, may be received by the officer in discharge of the whole of this execution;" and that a discretionary privilege to make a similar endorsement on like judgments and executions, be extended to the several branches of this bank.

At a meeting of the board of directors of the Bank of Kentucky, on Tuesday, May 1st, 1821:

The resolution laid on the table on the 13th of April, to authorise the cashier to receive the paper of the Bank of the Commonwealth, was taken up, amended and adopted.

*Resolved*, That it is expedient for the Bank of Kentucky and its branches to receive, to an amount hereafter to be agreed on, notes of the Bank of the Commonwealth of Kentucky and its branches.

The following resolution was then offered and adopted:

*Resolved*, That the branches have permission to receive one hundred and fifty thousand dollars of the paper of the Bank of the Commonwealth, in payment of discounts and calls, to be apportioned among them according to the amount of their bills receivable; and that the cashier of this bank be directed to receive that paper in payment of calls and discounts, until the further order of the board.

The following resolution was then offered and adopted:

*Resolved*, That the foregoing resolution shall take effect only on the condition, that the directory of the Bank of the Commonwealth shall agree that the several amounts for which she may be authorised to call on the Bank of Kentucky, shall remain in the latter institution, to be discharged by the paper of that bank which shall be collected under the several orders of this board; and that they shall agree at all times to exchange such paper of the Bank of Kentucky as they may receive, for their own paper received by the Bank of Kentucky.

At a meeting of the board of directors, on Friday, May 11th, 1821, the following resolutions were offered and adopted:

*Resolved*, That in any arrangement made by the president and directors of the Bank of Kentucky, with the president and directors of the Bank of the Commonwealth of Kentucky, the former desire it only on principles of reciprocity and a just regard to the interest of the institution.

*Resolved*, That this board will instruct its cashier to receive the notes of the Bank of the Commonwealth of Kentucky and its branches in the payment of debts generally, provided the president and directors of the Bank of the Commonwealth of Kentucky shall agree that the several amounts for which they may be authorised to call on the Bank of Kentucky, shall be held up to be discharged in the paper of that institution which shall be collected under the several orders of this board: And provided also, that this board expressly reserves to itself the right of prescribing or recommending to its branches such course as it may think best calculated to promote the interest of the institution in relation to the receipt of that paper.

At a called meeting of the board of directors, on Friday evening, May 25th, 1821, the following resolutions were offered and adopted by the board:

*Resolved*, That this board will permit the branches of this institution, at their discretion, to receive in payment a due proportion, according to capital, of the sum of one hundred and fifty thousand dollars, in the paper of the Bank of the Commonwealth of Kentucky; which proportion is not to be exceeded upon any account whatsoever, save that of payment upon executions endorsed in conformity to the order of this board.

*And be it also resolved*, That the department or departments which shall collect the paper of that bank to the ex-

tent herein prescribed, be directed to suspend the further receipt thereof until the amount on hand is reduced below that limit, by disbursements or otherwise.

At a meeting of the board of directors, on Monday, June 18th, 1821:

*Resolved*, That when any branch of this bank shall have received in payment of discounts or notes, or in any other manner than in discharge of executions endorsed by authority of this board, so as to make them payable in the paper of the Bank of the Commonwealth, the amount of that paper which is prescribed for it by the resolution of this board of the 25th ultimo, it shall thereafter cease to receive such paper, until the further order of this board.

Extract from the minutes.

R. WILKINSON, *Clerk*.

At a meeting of the board of directors, on Friday evening, May 25th, 1821:

*Resolved*, That the cashier of this bank be instructed to receive in payment, notes of the Bank of the Commonwealth of Ky. and its branches, until the further order of this board.

(A copy.) R. WILKINSON, *Clerk*.

*Letter addressed to the Presidents of the Branches of the Bank of Kentucky.*

BANK OF KENTUCKY, May 26, 1821.

*My dear Sir*—It affords me unalloyed pleasure, to have it at last in my power to dissipate the solicitude and incertitude pervading the branches, by communicating the course adopted by this board in relation to the receipt of the paper of the Bank of the Commonwealth of Kentucky.

An earnest desire to cultivate, as far as could be accomplished, short of a compromission of the essential interests of this institution, a cordial and friendly intercourse with that bank, and to secure by *positive stipulation*, the privilege of discharging the *treasury deposite* in the paper *thereof*, as well as to obtain a pledge, that such amounts of *our paper* as might be collected in the course of business, should be *retained*, and at all times be subject, at our requirement, to an exchange for an equal amount of its own, gave birth to a negotiation, unhappily protracted to an unusual length, and eventually unsuccessful.

Whilst this negotiation was in a state of progress, as it was impossible to ascertain, with any thing like precision, the probable result, it was deemed advisable to withhold from the branches any instructions respecting that recep-

tion, and to observe a rigid silence on the subject,' until the board was prepared to act distinctly, definitively and understandingly thereon. That juncture has now arrived, and the enclosed extract from the proceedings of this board will shew the extent which the directory of your department is authorised, in its discretion, to go in the receipt of that paper. An accumulation to that extent, it is believed, can be made without exposing the institution to any serious hazard of loss, arising from the possible decay of the credit of that paper. To exceed that limit, until the value and utility of that paper can be fully tested and most clearly ascertained by time and experience, is regarded as a highly improvident measure. Should its fate disappoint the anticipations of its friends; and maugre their exertions, should its credit decline to insignificance; yet it is apprehended that the Bank of Kentucky may be shielded from any great injury, upon the amount thus authorised to be received, by uses to which it can be applied within no very remote period; but any excess over that amount, would in such event remain, in all human probability, useless and unprofitable upon our hands—promotive, in no respect, of the preparations for a resumption of specie payments, and as little auxiliary towards the declaration of a dividend.

The cardinal policy of this institution imperiously dictates the resuscitation, by a recurrence to every legitimate means within the compass of its directory, not only of the credit of its notes, but also of the value of its stock. This line of conduct is not only imposed upon those in the direction of its concerns, by every obligation of good faith and fair dealing towards the holders of those notes and of fidelity to the stockholders, but is most forcibly enjoined by every consideration of present interest, future prosperity and corporate existence. A paper money, especially when inconvertible into specie, can neither enjoy a widely diffused circulation, nor long remain the standard of value or instrument of commercial exchanges, when devoid of the public confidence; and no paper can continue to retain that confidence, whilst in a state of progressive depreciation. Hence the importance of a contraction of our credits, the limitation of our future accommodations to the excess of payments over and above the call of two per cent. imposed by a former order of this board, and the indispensability of an absorption of a portion of the existing issues of our paper. The crisis appears to be peculiarly favorable to the attainment of these important objects. A medium, sustain-

ed by the patronage, power and resources of the govern-ment, and commensurate in amount, it is trusted, to the effectuation of the purposes of its creation—the relief of the country—is dilating itself in every direction, and will readily rush into the vacuum occasioned by the abstraction of the notes of this bank from circulation. As a paper approximates to that *subject* of which it is merely the representative, so will it, in a correspondent ratio, execute the functions of its being, and grow upon the public confidence. The subject designed to be represented by the paper medium, is universally admitted to have been the gold and silver coins—a standard of value, not merely at home, but in every commercial part of the world which is enlightened by civilization—and not less so in all times past, than at the present epoch. There are two modes of attaining this approximation: The one, by reducing our notes to a comparative level with our specie on hand and funds equivalent to specie; the other, by augmenting that specie and those funds to an amount bearing a proper and adequate relation to the quantity of paper in circulation. It is the first duty of the institution, to resort to each of those modes to a practicable extent, in the furtherance of so salutary an end. The first is, without doubt, the most obvious in its operations, and susceptible of being accomplished more speedily and with the least sacrifice. The other is more auxiliary and co-operative in its nature, requiring a long series of years, united with considerable sacrifices and unremitted exertions, to succeed in the attempt, unless seconded and reinforced by a heavy reduction of our issues. The truth is, we cannot exist long without a recurrence to specie payments. The sad fate which is successively attending the non specie paying banks, warns us of our approaching catastrophe. Let us take shelter ere the storm bursts in its fury, and abandon the road thus ever leading to ruin, before every avenue to escape is closed in upon us. The first step towards the avoidance of the danger, is a partial withdrawal of the present emission. That withdrawal must not, however, be assessed at an exorbitant rate, but must be mildly attempered to the condition of the times and the circumstances of our debtors; and whilst inflexibly exacted, must assume a moderate, graduated and inoppressive character.

If, as has been attempted to be shewn, there does really exist a necessity for resorting to a restrictive system, it follows as an inevitable consequence, that it would be the extravagance of impolicy, to collect more of the paper of

any institution, however unimpeachable in credit, than could be appropriated to a certainty to the discharge of the disbursements of the bank. If, then, there is an obvious propriety in limiting to the extent of foreseen application, the receipt of paper of the most responsible kind, how much more essential is it to restrain within competent bounds the amassment of a paper of untried utility, and the ultimate fate of which is altogether dependant upon future events, incapable of being either discerned or foreknown.

For these reasons the departments have been restricted to a limit (apportioned, however, upon a liberal scale) in the reception of the paper of the Bank of the Commonwealth, and have been interdicted from a persistance in that reception, so long as the amount on hand shall continue equal to that limit. The hope is indulged, that no sudden efflux of that paper will produce the necessity of a suspension, and that an appropriation of it to all the payments of the departments, as far as can be effected without murmuring and discontent, will always keep the quantity on hand under the limit prescribed.

It is also considered as a measure of providence, not escaping the foresight of your board, to husband with a zealous care every dollar of paper that it may be the good fortune of the cashier to reclaim from circulation, and to apply the same to no disbursement which can be answered by the other paper, provided there be a sufficiency of that paper on hand to meet the exigency.

It is apprehended that a just precaution will preclude the taking of that paper in general deposite; for surely the branch would studiously avoid becoming responsible, in its own paper, for any amount which the holder might lodge there of the notes of the Bank of the Commonwealth, with the view of withdrawing that amount in the paper of the branch. The discretion of your board will decide the question of the eligibility or ineligibility of the reception of that paper. This board imposes no obligation upon your directory, either to receive or reject it. It presumes, that it is most competent, within its appropriate sphere of action, to decide whether or not it be advisable to take it in payments, and only undertakes to set bounds to its amassment, because that amassment interferes with the entire relations of the whole institution.

The amount which is allotted to your branch, has been ascertained by calculation to be $———. It is deemed requisite to have at this board a constant knowledge of the quan-

sity of Commonwealth's paper on hand throughout the whole institution, in order that its prospective receipts and appropriations may be competently adjusted; and therefore I must express a wish, that for the future a monthly report of the condition of the department be forwarded, containing therein a particular statement of the amount of that paper on hand at the date of said report.

I am, dear sir, very respectfully,

(Signed) J. HARVIE, *Pres't.*

*Letter addressed to the Presidents of the Branches of the Bank of Kentucky.*

BANK OF KENTUCKY, June 23, 1821.

*Dear Sir*—Above you have a resolution passed by the board on the 18th inst. You will please call the attention of your cashier to its purport, and enjoin him to conform strictly thereto.

Very respectfully,

(Signed) J. HARVIE, *Pres't.*

*Letter from T. R. Moore, Esq. President of the Winchester Branch of the Bank of Kentucky.*

WINCHESTER, June 7th, 1821.

*Dear Sir*—Having been permitted to receive at this branch a proportion of $150,000 in the paper of the Bank of the Commonwealth of Kentucky, and being solicitous to manifest every indulgence to those indebted to this institution, as far as is consistent with its interest, this board would willingly avail itself of the privilege of taking such proportion of the paper of the Bank of the Commonwealth, provided it could make any certain disposition of it. I am directed to ascertain from you, whether this branch will be permitted to take a credit in the Bank of Kentucky for the amount of Commonwealth's paper she is authorised to receive, or ascertain what certain disposition this branch can make of such proportion thus received? I am further directed to learn of you, whether the new form of notes, as recited in the act re-chartering the Bank of Kentucky, is to be adopted in relation to all notes renewed, or whether it is to operate on notes given for fresh accommodations only?

I am, dear sir, yours respectfully,

(Signed) THOs. R. MOORE.

*Addressed to J. Harvie, Esq. P. B. K.*

*Answer to the above.*

BANK OF KENTUCKY, June 11th, 1821.

*Dear Sir*—Your favor of the 7th inst. was this evening submitted to the consideration of the board. I am instructed to state in reply, that the balance due upon account current and the profits of the department for the present half year, will be received at this office in the paper of the Bank of the Commonwealth of Kentucky, to the extent of the quota allotted to your department in the receipt of that paper, upon condition that the same be collected in the ordinary course of business and is remitted here *prior* to, or immediately after the first of July ensuing. I would myself, however, advise that in case that paper will answer the purpose, it be appropriated to the various disbursements and out goings of the department, thereby dispensing with the application of the paper of this institution to the same objects; and that the balance of the collections in that paper, standing over after satisfying those objects, be alone forwarded to this establishment.

Very respectfully,

(Signed) J. HARVIE, *Pres't.*

*Thos. R. Moore, Esq. Pr. Winchester B. B.*

*Ordered*, That the public printers forthwith print 200 copies of said letters for the use of the members of this house.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house, on the state of the commonwealth, Mr. Howard in the chair; and after some time spent therein, the speaker resumed the chair, and Mr. Howard reported that the committee had according to order, had under consideration the title of a bill to authorize taking the sense of the good people of this commonwealth as to the necessity and expediency of calling a convention, and had come to the following resolution thereupon, viz:

*Resolved*, That leave ought not to be given to bring in said bill.

Which he handed in at the clerk's table, and which being twice read, was concurred in.

The yeas and nays being required on concurring in said resolution by messrs. Shannon and Worthington, were as follows, viz:

Yeas— r. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, W. O. Butler, Cogswell, Cosby, Cowan, Crawford, Dejarnett,

Duncan, Eaves, Gordon, Green, J. G. Hardin, Hughes, English, Kincheloe, Litton, Lecompte, Lockett, Logan, Love, Luckett, B. Mason, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, Munford, Murray, Patterson, Payne, Pearcy, Pendleton, Pope, Rudd, Sandford, Slaughter, Smith, Speed, Stone of Wayne, Stratton, Talbot, B. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Yancey, Yantis and Younger—58.

Nays—messrs. Brooking, Bruce, A. Butler, Calhoun, Catlett, Cockerill, Cooper, Craig, Cravens, Davis, Desha, Fletcher, Gaither, Goode, Griffith, M. Hardin, Herald, Howard, Jackman, Johnson, King, Lynch, J. Mason, May, M'Clanahan, M'Cracken, Miller, Moore, Mullens, Noland, Selby, Shannon, Slack, Stone of Madison, J. Taylor, Wiley, Witherspoon and Worthington—38.

And then the house adjourned.

## FRIDAY, OCTOBER 26, 1821.

Mr. Smith presented the petition of Lydia Goard, praying a divorce from her husband, William Goard.

Mr. M'Clanahan presented the petition of sundry citizens of Fleming county, praying that a part of said county may be added to the county of Nicholas.

Mr. Cowan presented the petition of the trustees of the Centre College of Kentucky, situated in Danville, praying for the endowment of that institution.

Mr. Todd presented the petition of Nimrod Mason, praying a divorce from his wife, Sally, late Sally Lewis.

And Mr. King presented the remonstrance of sundry citizens of Cumberland county, against the establishment of the line lately run and marked between the state of Tennessee and Kentucky.

Which petitions and remonstrance were severally received, read and referred: the 1st, and 4th to the committee of religion; the second to the committee of propositions and grievances; the third to the committee to whom was referred so much of the governor's message as relates to the Transylvania University, and messrs. White and Cowan were added to said committee; and the fifth to the committee to whom was referred, so much of the governor's message as relates to the boundary line between this state and the state of Tennessee.

Mr. Presley N. O'Bannon, a member returned to serve in this house from the county of Logan, appeared, produ-

ed a certificate of his election, and of his having taken the oaths required by the constitution of the United States and the constitution and laws of this state, and took his seat.

A message from the senate by Mr. Crutcher:

*Mr. Speaker,*

The senate have adopted resolutions concerning the Post Office department, in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Lee, their secretary:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act to amend an act entitled, an act to establish a turnpike by the way of Williamsburg in Whitley county; and an act to allow an additional number of justices of the peace to certain counties, with amendments to the latter bill. And they have passed bills of the following titles: An act for the benefit of the wife and children of Benjamin Herndon; an act for the benefit of Margaret Watson; and an act providing for the safe keeping of the stationary and furniture belonging to the legislature; in which amendments and bills, they request the concurrence of this house.

And then he withdrew.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration the petition of Archibald Woods, representing that his wife attempted to poison him--that she has been guilty of dissolute practices, and praying for a divorce; and have come to the following resolution thereupon, to-wit:

*Resolved*, That the said petition, *is reasonable.*

Which being twice read and amended by striking out the words "*is reasonable,*" and inserting in lieu thereof the words "*be rejected,*" was concurred in.

On motion,

*Ordered*, That messrs. Brents and Cosby be added to the committee to whom was referred, a bill from the senate entitled, an act to amend an act entitled, an act to regulate endorsements on executions.

The speaker laid before the house a letter from Lemuel Williams, Esq. a member returned to serve in this house from the county of Cumberland, announcing a resignation of his seat therein.

Which was received and read.

*Ordered*, That a writ of election issue to the said county of Cumberland for the purpose of electing a representative to fill the vacancy aforesaid; and that the said election be held on Monday the 12th day of November next.

Leave was given to bring in the following bills:

On the motion of Mr. Allen 1. A bill to repeal the charter of the state Bank of Kentucky, and for other purposes.

On the motion of Mr. J. G. Hardin—2. A bill to reduce the officers' fees of the Commonwealth's Bank and its branches.

On the motion of Mr. Talbot—3. A bill to establish an election precinct in the east end of Bourbon county.

On the motion of Mr. Love—4. A bill to amend an act entitled, an act to establish the county of Perry.

On the motion of Mr. Wickliffe—5. A bill to amend the law regulating the action of detinue.

On the motion of Mr. Stratton—6. A bill for the erection of an election precinct in Floyd county.

On the motion of Mr. Cravens—7. A bill to provide for ascertaining the amount of the debt due the commonwealth for the sale of vacant lands.

On the motion of Mr. B. Taylor—8. A bill for the benefit of the heirs of Abraham Carter, dec.

On the motion of Mr. Lockett—9. A bill to prevent fraud in surveys and for other purposes.

On the motion of Mr. Davis—10. A bill to amend the acts regulating divorces in this commonwealth.

Messrs. Allen, Worthington, Moor, A. Butler, Jackman, Brents and Catlett, were appointed a committee to prepare and bring in the first; messrs. J. G. Hardin, Cockerill, Yancey, Luckett and Pendleton, the second; messrs. Talbott, Cogswell, Hughes and Crawford, the third; messrs. Love, Smith, May and Stratton, the fourth; messrs. Wickliffe, Jackman, Logan and Cowan, the fifth; messrs. Stratton, May and Love, the sixth; messrs. Cravens, Cowan, Howard, Yantis, Yancey and A. Butler, the seventh; messrs. B. Taylor, Todd, M'Connell and Payne, the eighth; messrs. Lockett, Gordon, A. Butler and Brents, the ninth; and messrs. Davis, Payne, Witherspoon and Bruce, the tenth.

Mr. Munford moved the following resolution, viz:

*Resolved by the house of representatives*, That the hour of meeting shall hereafter be at nine o'clock, for the balance of the session.

Which being twice read was laid on the table.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By Mr. Wiley—1. A bill to alter the mode of taking in lists of taxable property.

And by Mr. M'Millan—2. A bill to amend the penal laws.

Which bills were severally received and read the first time, and ordered to be read a second time.

Mr. H. M'Elroy moved for leave to bring in a bill authorizing constables to sell real estate.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

Mr. Yantis from the joint committee of enrolments, reported, that the committee had deposited in the office of the secretary of state, for the approbation and signature of the governor, the bills signed by the speaker of this house on yesterday.

Engrossed bills of the following titles:

1. An act declaring the north fork of Kentucky river a navigable stream; and 2. an act further to indulge the settlers on the lands acquired by the treaty of Tellico.

Were severally read a third time.

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Noland carry the former and Mr. Stone the latter bill to the senate, and request their concurrence.

The following bills were severally read a second time: 1. A bill to change the place of holding elections in the eastern precinct in Hardin county; 2. a bill to alter the mode of summoning petit juries; 3. a bill for the removal of the seat of justice of Campbell county; 4. a bill to amend the act for surveying the military claims west of the Tennessee river, approved December 26th, 1820; 5. a bill to establish a seminary of learning in the county of Hart; and 6. a bill to amend the several acts taxing billiard tables and for other purposes.

The 1st and 5th were severally ordered to be engrossed and read a third time to morrow; the second was committed to a committee of the whole house on the state of the commonwealth for to morrow; the third was laid on the table; the fourth was committed to a committee of the whole house on the state of the commonwealth, for Friday the second day of November next; and the sixth to a select committee of messrs. Wickliffe, Alexander, Howard and Jackman.

The following bills from the senate were severally read a second time, viz:

1. An act for the benefit of John White; and 2. an act for the relief of certain sheriffs.

The first (being amended at the clerk's table) was ordered to be read a third time to-morrow; and the second was committed to a select committee of messrs. Jackman, Clark, Shannon and Thompson.

The house took up resolutions from the senate concerning the post-office department, which were twice read and concurred in as follows, viz:

IN SENATE, OCTOBER 25, 1821.

Whereas, by the late regulations of the post offices in this state, inconvenience is experienced by its citizens, many of them are denied the privilege of the post office, by requiring of them round specie in payment for postage; and as the proceeds arising from the postage of letters received in this state, are paid to the carriers of the mail, residents within the state, it is thought right and equitable to regulate the contracts for carrying the mail, that the same may be paid in the currency of the state, thereby to enable the citizens of this commonwealth to avail themselves of the privilege of conveying their letters by mail—

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That our senators in Congress be instructed and representatives be requested, to have the regulation made with the post office department, if practicable, that the currency of the country shall be received for the postage of letters in this commonwealth.

*Resolved*, That the governor transmit copies of this resolution to our senators and representatives in Congress.

Extract, &c. Att. WILLIS A. LEE, C. S.

*Ordered*, That Mr. Wickliffe inform the senate thereof.

The house took up the amendments proposed by the senate to a bill from this house entitled, an act to allow an additional number of justices of the peace to certain counties.

Which being twice read were concurred in.

*Ordered*, That Mr. Wickliffe inform the senate thereof.

The following bills from the senate were severally read the first time and ordered to be read a second time, viz:

1. An act for the benefit of the wife and children of Benjamin Herndon; 2. an act for the benefit of Margaret [illegible]atson; and 3. an act providing for the safe keeping of the stationary and furniture belonging to the legislature.

*Ordered*, That a bill from the senate entitled, an act to authorize the appointment of an additional number of constables in certain counties, be committed to a select committee of messrs. Logan, Calhoun, Howard and Wickliffe.

Mr. Logan from said committee, forthwith reported the said bill with an amendment, which being twice read was concurred in.

The question was then put on the passage of the said bill as amended, (the constitutional provision and rule of the house having been previously dispensed with) which was decided in the affirmative.

*Ordered*, That Mr. Logan inform the senate thereof, and request their concurrence in the said amendments.

And then the house adjourned.

## SATURDAY, OCTOBER 27, 1821.

Mr. Yancey presented the petition of sundry citizens of the counties of Barren, Allen and Monroe, praying for the establishment of a new county out of a part of each of said counties.

And mr. Cockerill presented petitions counter thereto.

Mr. Yancey presented the petition of sundry citizens of the counties of Barren, Cumberland, Adair and Green, praying for the erection of a new county out of a part of each of said counties.

And messrs. Selby and King severally presented petitions counter thereto, from the counties of Adair and Cumberland,

And mr. Todd presented the memorial of Luke Munsell, containing propositions to the legislature in relation to his map of the state of Kentucky, and the amount due by him to the state for loans made in order to complete the same.

Which petitions and memorial were severally received, read and referred; the 1st, 2d, 3d and 4th to the committee of propositions and grievances; and the 5th to a select committee of messrs. Todd, Yantis, Luckett, Fletcher and A. Butler, giving said committee leave to report thereon by bill or otherwise.

Mr. Logan from the committee for courts of justice, made the following report, viz:

The committee for courts of justice have, according to order, had under consideration the petition of Polly Simpson, praying that the balance of the state price due on 200 acres of land, in Barren county, owned by her, may be remitted, and that a grant may issue to her for the same;

and have come to the following resolution thereupon, to-wit:

*Resolved*, that the said petition. *is reasonable.*

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles:

An act to amend an act establishing a turnpike by the way of Williamsburg in Whitley county; and an act to allow an additional number of justices of the peace in certain counties.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Logan from the committee for courts of justice, as unfinished business of last session—1. A bill for the benefit of Solomon Griffin and the heirs of Catherine Smith.

By Mr. R. C. Anderson—2. A bill authorising the insertion of certain advertisements in the Emporium & Commercial Advertiser.

By Mr. Pearcy—3. A bill to amend the execution law.

By Mr. Wickliffe—4. A bill to amend and repeal in part an act entitled, an for establishing and laying off a town at the Iron Banks, approved December 27th, 1820.

And 5. A bill to amend the laws regulating the action of detinue.

Which bills were severally received and read the first time and ordered to be read a second time.

*Ordered*, That the public printers forthwith print 200 copies of the 5th bill, for the use of the members of this house.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker*,

I am directed by the governor to inform this house, that he did on the 23d instant, approve and sign an enrolled bill which originated in this house of the following title:

An act declaring part of Floyd's fork navigable.

And that he did on the 26th inst. approve and sign enrolled bills which originated in this house, of the following titles:

An act giving the judge of the thirteenth judicial district further time to move into and reside in the same.

An act for the benefit of Paul Durrett, of Montgomery county.

An act to authorise the citizens of Springfield to elect trustees for said town.

And an act to authorise the editors of certain newspapers to insert in their papers certain advertisements.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

The house took up a bill for the removal of the seat of justice of Campbell county.

*Ordered*, That the said bill be engrossed and read a third time on Monday next.

Leave was given to bring in the following bills:

On the motion of MR. Howard—1. A bill for the benefit of the heirs of David C. Irvine, deceased.

On the motion of MR. Johnson—2. A bill to ascertain and mark the division line between the counties of Boone and Grant.

On the motion of MR. H. M'Elroy—3. A bill authorizing sheriffs to sell real property by virtue of an execution issued from a judgment of any justice of the peace.

And on the motion of MR May—4. A bill to amend an act entitled, an act to amend an act appropriating the vacant lands of this commonwealth, approved November 27th, 1820.

Messrs. Howard, Stone of Madison, Dejarnett and Smith, were appointed a committee to prepare and bring in the first; messrs. Johnson, W. O. Butler and Mullens, the second; messrs. H. M'Elroy, Wickliffe, Desha and Pope, the third; and messrs. May, Slack, Stratton and Fletcher, the fourth.

Mr. Green moved for leave to bring in a bill to alter the time of holding elections for members to Congress.

*Ordered*, That the title presented on said motion, be laid on the table.

Mr. M'Millan moved the following resolution:

*Resolved by the house of representatives of the Commonwealth of Kentucky*, That the use of their Hall be offered to all religious denominations for the purpose of preaching in on any sabbath during the present session.

Which being twice read was adopted.

Mr. Bruce moved for leave to bring in a bill to authorise the circuit judges of this commonwealth, to grant injunctions on judgment or decrees, where land was in controversy, which have been rendered or may hereafter be ren-

dered, in the courts of the United States, and for other purposes.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

Mr. Bruce, read and laid on the table the following resolution, viz.

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That commissioners be appointed on the part of this state to meet and co.operate with commissioners on the part of the state of Virginia, to alter and change the compact between said states.

Mr. Bruce moved for leave to bring in a bill for the relief of the militia company on the east side of Kinnicomick creek, including Furman's bottom, so far as it respects their attending the battalion and regimental musters in the county of Lewis.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

*Ordered*, That messrs. Bruce and Slack be added to the select committee appointed to prepare and bring in a bill to amend the militia laws.

And then the house adjourned.

## MONDAY, OCTOBER 29, 1821.

The speaker laid before the house a letter from the chairman, of the board of trustees of the Transylvania University, enclosing a report of the situation of that institution.

Which was received and read.

*Ordered*, That the said letter and report be committed to the committee to whom was referred, so much of the governor's message as relates to the Transylvania University.

Mr. J. S. Anderson presented the petition of sundry citizens of Logan county, praying that a part of said county may be added to the county of Todd.

Mr. Cockerill presented petitions from the citizens of the county of Allen, counter to those presented on Saturday last, for the formation of a new county out of the counties of Barren, Allen and Monroe.

And Mr. Cowan presented the petition of sundry citizens of Mercer county, praying that a part of Chapline's fork of Salt river, may be declared a navigable stream.

Which petitions were severally received, read and referred; the 1st and second to the committee of propositions and grievances; and the third to a select committee of messrs. Cowan, Moore, S. M'Elroy, Pearcy, Cosby and Pope, giving said committee leave to report thereon by bill or otherwise.

Mr. A. Butler from the committee of privileges and elections, made the following report, viz:

Whereas a memorial has been presented to this house in which the right of Joseph G. Hardin (a member returned from the county of Barren and part of Monroe) to take a seat in the present legislature, is denied on the ground of ineligibility at the time of his election, and praying that the seat of the said member may be vacated; and the memorial with all matters therein referred to, being under consideration before the committee of privileges and elections, they have come to the following resolution:

*Resolved*, That Joseph G. Hardin, a member returned to serve in the present house of representatives from the county of Barren and part of Monroe, was eligible at the time of his election, and is entitled to his seat.

Which being twice read was concurred in.

The following bills were reported from committees appointed to prepare and bring in the same, viz.

By Mr. Talbot—1. A bill to establish an election precinct in the east end of Bourbon county.

And by Mr. J. G. Hardin—2. A bill declaring big Barren river further navigable.

Which bills were severally received and read the first time, and ordered to be read a second time.

A message from the senate by Mr. Jones:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house to a bill from the senate entitled, an act to authorize the appointment of an additional number of constables in certain counties.

And then he withdrew.

Mr. Crawford from the joint committee of enrolments, reported that the committee had examined enrolled resolutions and bills of the following titles:

Resolutions concerning the post office department.

A resolution for the appointment of joint commitees to examine the different offices.

A resolution for appointing a joint committee to examine the Bank of Kentucky.

An act allowing further time to the county court of Henry to make out and return their lists of taxable property for the year 1821.

And an act to authorize the appointment of an additional number of constables in certain counties.

And had found the same truly enrolled.

Whereupon, the speaker affixed his signature thereto.

*Ordered*, That Mr. Crawford inform the senate thereof.

Mr. Worthington read and laid on the table the following resolution, viz :

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That the senators be instructed and the members of the house of representatives of this state in Congress be requested, to use their best efforts to procure the passage of a resolution by the Congress of the United States, submitting to the states respectively, the following amendment to the constitution of the United States, to-wit :

"The judicial power of the courts of the United States shall not be construed, either directly or indirectly, to extend to any case or cases growing out of the laws passed by any state ; nor shall they sit in judgment upon any state constitution."

On motion,

*Ordered*, That Mr. Clark be added to the committee to whom was referred, so much of the governor's message as relates to the occupying claimant laws of this state.

Leave was given to bring in the following bills :

On the motion of Mr. Worthington—1. A bill to repeal the act of assembly of 1798, on the subject of champerty and maintenance, and reviving the common law in relation to that matter.

And on the motion of Mr. J. G. Hardin—2. A bill to appropriate all the vacant land south of Walker's line and north of the meridian 36° 30'

Messrs. Worthington, Logan, Brents, W. O. Butler and Speed, were appointed a committee to prepare and bring in the first ; and messrs. J. G. Hardin, Brents, Yancey, Stone of Wayne and King, the second.

A bill from the senate entitled, an act for the benefit of John White, was read a third time as amended.

*Resolved*, That the said bill as amended do pass.

*Ordered*, That Mr. Crawford inform the senate thereof and request their concurrence in said amendments.

Engrossed bills of the following titles :

1. An act to change the place of holding elections in the eastern precinct in Hardin county; 2 an act to establish a seminary of learning in the county of Hart; and 3. an act for the removal of the seat of justice of Campbell county.

Were severally read a third time.

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Crawford carry the said bills to the senate and request their concurrence.

The following bills were severally read a second time: 1 A bill from the senate entitled, an act for the benefit of the wife and children of Benjamin Herndon; 2. a bill from the senate entitled, an act for the benefit of Margaret Watson; 3. a bill from the senate entitled, an act providing for the safe keeping of the stationary and furniture belonging to the legislature; 4. a bill to alter the mode of taking in lists of taxable property; 5. a bill to amend the penal laws; 6. A bill for the benefit of Solomon Griffin and the heirs of Catharine Smith; 7. a bill authorizing the insertion of certain advertisements in the Emporium & Commercial Advertiser; 8. a bill to amend the execution Law; and 9. a bill to repeal in part an act entitled, an act for establishing and laying off a town at the Iron Banks, approved December 27th, 1820.

The 1st, 2d, and 3d, were severally ordered to be read a third time; the 6th and 7th (the sixth being amended at the clerk's table) were severally ordered to be engrossed and read a third time; the 4th was committed to a committee of the whole house on the state of the commonwealth for Monday next; the 5th to a select committee of messrs. Yantis, M'Millan, Wickliffe, Cowan and Bruce; the 8th (with sundry amendments offered at the clerk's table) to the committee to whom was referred, a bill from the senate entitled, an act to amend the act entitled, an act to regulate endorsements on executions, and messrs. Logan, Pope and Alexander were added to said committee; and the 9th was laid on the table.

And thereupon, the rule of the house, constitutional provision and third reading of the 2d, 3d and 7th bills being dispensed with, and the 7th being engrossed,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Crawford inform the senate thereof, and request their concurrence in the 7th bill.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*,

The senate have passed a bill, entitled, an act to amend the militia law, in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

The senate have passed bills of the following titles: An act to amend the law limiting the time of bringing suits; and an act to prevent any further subscription on the part of the state, for bank stock; in which bills they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to remove the seat of justice of Owen county; in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Lackey:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to amend the act reserving certain property from execution; in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Dawson:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to exempt certain persons from working on high ways; in which bill they request the concurrence of this house.

And then he withdrew.

A message from the Governor by Mr. Anderson:

*Mr. Speaker*,

I am instructed by the Governor to inform this house, that he did on the 27th instant approve and sign enrolled bills which originated in this house, of the following titles:

An act to allow an additional number of justices of the peace to certain counties.

And an act to amend an act to establish a turnpike by the way of Williamsburg in Whitley county.

And then he withdrew.

*Ordered*, That Mr. Crawford inform the senate thereof.

The following bills from the senate were severally read the first time and ordered to be read a second time, viz:

S.

1. An act to amend the militia law; 2. an act to amend the law limiting the time of bringing suits; 3. an act to remove the seat of justice of Owen county; 4. an act to prevent any further subscription on the part of the state for Bank stock; 5. an act to amend the act reserving certain property from execution; and 6. an act to exempt certain persons from working on highways.

*Ordered*, That the public printers forthwith print 200 copies of the second bill for the use of the members of this house.

And thereupon the rule of the house, constitutional provision and second reading of the first bill being dispensed with, the same was committed to the committee appointed to prepare and bring in a bill to amend the militia law.

On motion,

*Ordered*, That Mr. Yancey be excused from, and Mr. Brents be added to the committee on the part of this house, to examine and report the state of the Auditor's office.

And then the house adjourned.

## TUESDAY, OCTOBER 30, 1821.

Mr. R. C. Anderson presented the petition of sundry citizens of Louisville, praying that legislative provision may be made for the erection of a public Hospital in the said town, and that a permanent fund may be provided for defraying the expences of said institution.

Mr. Howard presented the petition of John Halley, praying that a law may pass appointing trustees to the town of Boonsborough, for the purpose of conveying to the proper owners, the lots in said town.

And Mr. Griffith presented the petition of sundry citizens of Nicholas county, praying that a part of said county may be added to the county of Harrison.

Which petitions were severally received, read and referred; the first to a select committee of messrs. R. C. Anderson, Speed, Logan, Howard and Cowan; the second to a select committee of messrs. Howard, Dejarnett, Stone of Madison, Smith and Love, giving said committees leave to report thereon by bills or otherwise; and the third to the committee of propositions and grievances.

Mr. Yantis from the joint committee of enrolments, reported, that the committee had deposited on yesterday in the office of the secretary of state, for the approbation and

signature of the governor, the bills signed on yesterday by the speakers of both houses.

Mr. Witherspoon from the committee to whom was referred, so much of the governor's message as relates to the establishment of a state Lunatic hospital, made the following report, which was twice read and adopted, as follows:

THE committee to whom was referred that part of the governor's message which relates to the expediency of establishing a State Lunatic Hospital at Lexington, having had the same under consideration, beg leave to submit to the house the following statement of facts and observations, together with the resolution hereunto subjoined, viz.

*First*—As to the lot of ground and the building which has been erected thereon, it appears to your committee, from information on which they can rely, that the said lot, which is, by exact measurement, estimated to contain nine acres, one rood and thirty-six poles of ground, and to which an indisputable title can at any time be made, is supplied with a never failing spring of excellent water, and is well situated as to health, beauty and convenience, and may in future be extended to any limits or size commensurate with the great objects of the said institution; that the building which has been erected thereon is spacious, remotely situated from any other, and the workmanship, as far as it has been executed, is neat and faithfully done. Its dimensions are 66 feet in front, by 68 feet 4 inches in width, and three stories high, with a good cellar; which, as computed by competent judges, when it is properly finished, will afford ample accommodations for sixty or seventy lunatics, and all necessary attendants.

*Second*—That the most satisfactory assurances have been given on the part of professors Brown, Dudley and Richardson, of the Medical College, as well as of doctors Ridgely, Pindell, Satterwhite, Boswell and Warfield, of Lexington, of their prompt and gratuitous services, whenever they may be required for that purpose by the superintendant or governor of the said institution: and moreover, that twelve or more respectable citizens of Lexington and its vicinity, whose names are hereunto annexed, have also tendered their services gratuitously, so far as to have the said building completed in any manner which the legislature may direct; and further, to organize and superintend from time to time the said institution, as a board of trustees or commission-

ers, according to the rules and regulations which the legislature may in their wisdom see fit to adopt for its internal police.

*Third*—That the actual amount which has been already expended for the said building and lot, is $ 5,111 33; that the amount of debt yet due by the Hospital committee, is $ 1,220 05; that the said Hospital committee, considering that the public good will be much better promoted by its becoming a State institution, are willing to resign it, with a title in fee, to the legislature, for the above stated sum of $11,220 05, which remains as a debt yet due by them, or at any other sum which they in their wisdom and equity may be disposed to allow. It is moreover believed, that the sum of five thousand dollars will be amply sufficient to finish the said building and prepare it for the reception of at least the number of lunatics which has been before mentioned.

*Fourth*—It appears further to your committee, from a report recently made to the legislature by the auditor of public accounts, that the expences incurred for the maintenance and safe keeping of the said unfortunate class of our fellow-citizens for the last year, exceeded the sum of $ 4,000, and that the probable estimate of the ensuing year will not be less than $ 5,000. It is believed that the one half of either of these sums will be fully adequate to afford a comfortable support to all that description of persons, if placed within this institution.

*Fifth*—When the ample resources of the state, as exhibited in the recent reports of the state Treasurer and of the President of the Commonwealth's Bank, making a disposable fund of upwards of $ 125,000—when the great & important advantages which must doubtless result from a well organized institution of the kind now contemplated, in ameliorating the condition, and most probably in many instances, of restoring to sanity, this peculiarly afflicted and most pitiable class of our fellow-creatures—when also the close affinity which will be found to exist between this institution, if established at Lexington, and the Medical College at that place, which has emphatically become the pride and the ornament of the west, and already, though yet in its infancy, begins to rival any in the east, and which has certainly for the short period since it has been instituted, very far surpassed in its rapid growth and justly acquired fame, any other known in medical history—when these circumstances, and others which might be enumerated, are duly consider-

ed, they leave no doubt in the minds of your committee, that it would be highly consistent with the honor and the dignity of the legislature, as well as conducive to the economy, the humane policy and the best interests of the state, to establish such an institution: and under these strong impressions, your committee beg leave to offer the following resolution, viz:

*Resolved*, That it is expedient for the legislature of this state, to purchase the Lunatic Hospital at Lexington, provided it can be had at the sum of dollars, agreeably to the proposals of the committee of the said institution; and that the committee which has been appointed on that part of the governor's message which relates to the same subject, be permitted to introduce a bill accordingly.

*Names of Trustees or Commissioners for superintending the said institution, viz:*

Henry Clay, James Morrison, Charles Wilkins, Wm. T. Barry, Mathews Flournoy, John W. Hunt, Charles Humphreys, Elisha Warfield, J. R. Witherspoon, Alexander Parker, Thomas Bodley, James Trotter.

*Supernumeraries, viz:*

M. Kennedy, Asa Blanchard, Stout Barton, John Brand, John Todd, T. F. Talbott, R. M. Cunningham.

*Commissioners for superintending the finishing the building:*

Elisha Warfield, Charles Humphreys, Thomas Wallace, M. Kennedy.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution, and that the public printers forthwith print 200 copies of said report, for the use of the members of this house.

On motion,

*Ordered*, That Mr. Warfield have leave of absence from the service of this house, for ten days.

Leave was given to bring in the following bills:

On the motion of MR. Kincheloe—1. A bill to authorise the location of a branch of the Commonwealth's Bank in the thirteenth judicial district.

On the motion of MR. Yantis—2. A bill to alter the annual meeting of the legislature.

On the motion of MR. Cosby—3. A bill to amend the law regulating attachments.

On the motion of MR. M. Hardin—4. A bill further to amend the occupying claimant laws of this commonwealth.

On the motion of Mr. Patterson—5. A bill for the benefit of the heirs of Stephen Rossell, deceased.

Messrs. Kincheloe, Wickliffe, Yantis and Speed, were appointed a committee to prepare and bring in the first; messrs. Yantis, Moore, Sandford and Cosby, the second; messrs. Cosby, Pope, Worthington and Rudd, the third; messrs M. Hardin, Bruce and Crawford, the fourth; messrs. Patterson, Bradford, Crawford and Wickliffe, the fifth.

Mr. Miller moved for leave to bring in a bill to exclude from office and from suffrage, those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

On motion,

*Ordered*, That messrs. Brents, M. Hardin and Bruce be added to the committee to whom was referred, so much of the governor's message as relates to the occupying claimant laws of this state; and that messrs. Lynch and Cockerill be added to the committee appointed to prepare and bring in a bill to appropriate all the vacant lands south of Walker's line and north of the meridian 36° 30′

A message from the senate by Mr. Pope:

*Mr. Speaker.*

The senate concur in a resolution which originated in this house, directing the laws of Kentucky, decisions of the court of appeals and journals of the general assembly, to be furnished the Transylvania University; and they have passed a bill entitled, an act for the benefit of John A. Tarascon; in which bill they request the concurrence of this house.

And then he withdrew.

A bill to amend an act entitled, an act locating the branch banks of the Commonwealth of Kentucky, was again read a second time, as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the branch bank of the Commonwealth of Kentucky, located at Louisville, shall, after the first day of January, 1822, be removed to Shepherdsville.

And the question being taken on engrossing the said bill and reading it a third time, it was decided in the negative; and so the said bill was rejected.

The yeas and nays being required thereon by messrs. Alexander and Wickliffe, were as follows, viz:

Yeas—Messrs. Alexander, Catlett, Craig, Cravens, Desha, Duncan, Griffith, M. Hardin, Kincheloe, Litton, Lockett, M'Clanahan, Miller, O'Bannon, Patterson, Rudd, Wickliffe, Wiley and Yancey—19.

Nays—Mr. Speaker, messrs. Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, W. O Butler, Calhoun, Clark, Cockerill, Cogswell, Cooper, Cosby, Cowan, Crawford, Davis, Dejarnett, Eaves, Fletcher, Goode, Gordon, Green, J. G. Hardin, Herald, Howard, Inglish, Jackman, King, Lecompte, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Connell, H. M'Elroy, S. M'Elroy, M'Cracken, Moore, Mullens, Munford, Murray, Noland, Payne, Pearcy, Pendleton, Sandford, Selby, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, Thompson, Todd, White, Witherspoon, Worthington, Yantis and Younger—72.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the Commonwealth, Mr. R. C. Anderson in the chair, which being resumed by Mr. Speaker, Mr. Anderson reported, that the committee had, according to order, had under consideration a bill to amend the several acts regulating sheriffs' and constables' fees in this commonwealth, and had made some progress therein: but not having time to go through the same, had instructed him to ask for leave to sit again.

Which was granted.

The Speaker laid before the house a letter from Thomas T. Barr, enclosing a memorial preferring sundry charges against Benjamin Mills, Esq. one of the Judges of the Court of Appeals;

Which were received and read.

*Ordered*, That the said letter and memorial be referred to the committee to whom was referred, the memorial and petition of John Kenney; and that messrs. Cosby, Wickliffe and Clark be added to the said committee.

A bill from the senate entitled, an act for the benefit of John A. Tarascon, was read the first time and ordered to be read a second time.

And then the house adjourned,

WEDNESDAY, OCTOBER 31, 1821.

Mr. Cockerill presented the petition of sundry citizens of this commonwealth, praying that a law may pass to reduce the fees now allowed by law to clerks, sheriffs magistrates and constables.

Mr. Craig presented the petition of sundry citizens of Knox, Clay and Rockcastle counties, praying for the erection of a new county out of a part of each of said counties.

Mr. Goode presented the petition of sundry citizens of Casey county, counter to those formerly presented, praying that a part of said county may be added to the county of Mercer.

Mr. Brooking presented the petition of Rosanna Patrick, late Rosanna Cox, praying a divorce from her husband, Wiley J. Patrick.

Which petitions were severally received, read and referred; the first to the committee for courts of justice; the second and third to the committee of propositions and grievances; and the fourth to the committee of religion.

A message from the senate by Mr. Pope:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act authorising the insertion of certain advertisements in the Emporium & Commercial Advertiser; and they have passed a bill entitled, an act for the benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased; in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Barbee:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, and act to establish a seminary of learning in the county of Hart; and they have passed a bill entitled, an act to change the time of electing members to Congress; in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Ewing:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: an act for the benefit of the widow and heirs of Isaac Howdysheit, deceased; an act further to indulge the settlers on the lands acquired by the treaty of Fellico; an act to change the place of holding

elections in the eastern precinct in Hardin county; and an act further to regulate the payment of the debt due the commonwealth for the sale of vacant lands; and they have passed a bill entitled, an act to amend the act altering the mode of taking in the lists of taxable property, in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. M'Afee:

*Mr. Speaker,*

The senate have passed a bill entitled, an act to regulate trials of the right of property in the country, in which bill they request the concurrence of this house.

And then he withdrew.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By Mr. Craig—1 A bill for the benefit of Samuel Simpson.

By Mr. May—2. A bill to amend an act entitled, an act to establish the county of Perry.

Which bills were severally received and read the first time, and ordered to be read a second time.

Leave was given to bring in the following bills:

On the motion of Mr. H. M'Elroy—1. A bill to extend the limits of the town of Morganfield.

And on the motion of Mr. Cogswell—2. A bill to amend an act to regulate taverns and restrain tippling houses.

Messrs. H. M'Elroy, Logan, O'Bannon and J. S. Anderson, were appointed a committee to prepare and bring in the first; and messrs. Cogswell, Worthington and Alexander, the second.

A bill for the benefit of mechanics was committed to a select committee of messrs. Luckett, Brents, O'Bannon, M'Clanahan and Logan.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the Commonwealth, Mr. Smith in the chair, which being resumed by the Speaker, Mr. Smith reported, that the committee had, according to order, had under consideration a bill to alter the mode of summoning petit jurors, and had made some progress therein: but not having time to go through the same, had instructed him to ask for leave to sit again.

Which was granted.

Mr. Yancey presented the petition of the widow and heirs of Turner Morehead, deceased, praying that a law may

pass to authorise a sale of some of the lands of the intestate, and an investment of the proceeds in other lands more conveniently situated.

Which was received, read, and referred to a select committee of messrs. Yancey, J. G. Hardin, Slaughter and Cockerill, giving said committee leave to report thereon by bill or otherwise.

And then the house adjourned.

## THURSDAY, NOVEMBER 1, 1821.

Mr. Lockett presented the petition of sundry citizens of Henderson county, praying that a law may pass to authorize the erection of a house of public worship on the public square in the town of Henderson.

Mr. White presented the petition of Ambrose Camp, representing that in the year 1817, while acting as a deputy sheriff of Jefferson county, he received $115 in notes of the Kentucky Insurance Company, in payment of the revenue tax, which by law he was then authorised to receive; but which the Treasurer refused to receive from him, and which amount he has been compelled to pay with damages and costs; and praying that the amount of the debt, damages and costs may be refunded to him.

Mr. White also presented the report of the President and Managers of the Shelbyville and Louisville Turnpike Road Company, and praying the legislature to authorise a subscription for stock in said company on the part of the state.

And Mr. Todd presented the petition of William Spangler, praying a divorce from his wife, Nancy Spangler.

Which petitions were severally received, read and referred; the first to a select committee of messrs. Lockett, H. M'Elroy, Gordon and Witherspoon; the second to a select committee of messrs. White, R. C. Anderson, Luckett, Speed and Brents; the third to a select committee of messrs. White, Logan, Todd, A. Butler and Moore, giving said committees leave to report thereon by bills or otherwise; and the 4th to the committee of religion.

Mr. Cowan from the select committee to whom was referred, a bill from the senate entitled, an act to amend the act entitled, an act to regulate endorsements on executions, reported the same with amendments.

*Ordered*, That the said bill with the amendments be committed to a committee of the whole house on the state of the commonwealth for Tuesday next.

Mr. R. C. Anderson from the select committee to whom was referred, the petition of the citizens of Louisville, praying for the establishment of a public Hospital in said town, made the following report:

The select committee to whom was referred the petition of the citizens of Louisville, praying for an appropriation by law for the erection of a Hospital, have had the same under consideration, and beg leave to report—

That in the year 1817, a law was passed by the legislature incorporating the "Louisville Hospital," for the benevolent purpose as therein expressed, of giving "relief, sustenance and comfort to the afflicted."

That for want of funds necessary for such an establishment, nothing has been done under the provisions of the law. This committee thinks that great wisdom was shown by the legislature, in passing the act for such an incorporation; that the law designated with great propriety, the place at which the greatest number of our fellow-citizens require that aid, which can be gotten only in an institution of this kind. There is no place at which so many of the citizens of the state become sick, at a distance from their friends and homes, because there is none to which commerce through its various channels, draws so many at the most unfortunate season of the year.

Louisville is the highest point of the large Steam Boat navigation; and whenever these boats cease to run, the town receives all those who had been employed in them. Many of these men are already infected by the diseases of a southern climate, and all of them with habits wholly unfavorable to the continuance of their health. Many others employed on the river in boats of various descriptions, during the winter and spring, are left in the summer and autumn a prey to diseases, which are the natural results of a life spent on the river, sometimes intemperately, always without care. These men, though in their avocations hardy and industrious, are generally not such as (when left unemployed) attend either to the preservation of their health, or their funds; they soon indulge in habits which exhaust both; they become destitute, sicken, and die in multitudes, unless relieved by the hand of humanity.

This too is true with regard to many who are not regularly engaged in the navigation of the river. Many robust and valuable young men from the different parts of this state, descend to New-Orleans in the spring, either under temporary engagements as boatmen, or with small invest-

ments in the produce of the country; on their return they reach Louisville in the summer, many of them already sick, and all of them relaxed by the heat or the dissipation of the south. These lives can be saved only by the comforts of a nurse and a physician. This class of sufferers has greatly increased within the last two years. A deck passage from New-Orleans has become so cheap, that the practice of returning by land is very much discontinued. Those who return in the steam boats are generally landed at Shipping-port, and one of this committee has seen on the deck of a single boat during the last summer, two hundred passengers. It is believed that this change in the manner of returning from the lower country, will alone throw on Louisville a mass of sick population, sufficient to ensure the interposition of the legislature; and the claim is almost resistless when it is remembered that these men, are almost wholly citizens of Kentucky, from the upper and middle sections of the state.

This too is the place at which much of the gross production of the country is embarked for exportation; and it is the place of debarkation for the groceries consumed in a large portion of the whole state. The number of persons engaged in the land transportation of these commodities, to and fro, and who are frequently detained for days and sometimes for weeks, is very considerable. These men generally live in the interior and healthy situations of the country, and probably on that account can have less expectation of being exempt from disease. Experience shows that they are not exempt; they serve to increase the long list of those, whom the comforts of a hospital might restore to health and to their friends.

This town is placed on the great highway between the east and the west. It is the stopping place of strangers and transient persons. They greatly lengthen the invalid list. And it is not believed that this legislature, would exclude from the comforts of its asylum, a stranger, when it is remembered that he would most probably, be a fellow-citizen of the Union, but certainly a fellow-creature.

An argument might here be urged, that in this case the exercise of the finest feelings of the human heart, is in perfect unison with the coldest principles of interest. Every good citizen looks with delight towards the cherishing of our commerce from below, instead of that ruinous trade heretofore carried on with the east. Every sentiment then of patriotism and interest impels us to nourish those hardy

men, who are engaged in this favorite commerce; to foster their enterprize, when well, and to nurse them when sick; to remove every thing which can discourage the trade or dishearten the trader. The introduction of steam boats and the enterprize of our citizens, has already introduced an important change in western commerce. Let then every measure be adopted which can promote it, or animate those engaged in it. Nothing can more animate those engaged in it. Nothing can more animate the adventurous boatman, when he is destitute, diseased, and afar from his friends, than the recollection that he is still in the asylum prepared by his country; that he is sustained by its bounty and nursed by its benevolence.

The committee is informed, that towards the relief of the sick at Louisville, much has been done by private humanita and individual contribution. A company of benevolent citizens, under the denomination of the "Friendly Society," have devoted much time and money towards cherishing these unfortunate persons. This society has procured a building for a temporary hospital; the county court of Jefferson has made an appropriation in aid of the exertions of this society; and the physicians of the town have given their kind and gratuitous attendance. But all this, and all that private humanity can do, is wholly inadequate to the comfort of all the sick.

It is not necessary to tell a wise legislature, that they should not rely for the execution of any beneficial purpose, on the feelings of humanity alone. Contributors become weary by successive applications; individual charity is exhausted, and the personal attention necessary to superintend the application of the charity, becomes fatiguing and burdensome. When private benevolence is alone relied on, there is a want of system in the disbursement, which defeats half the object. The money is expended liberally, but without the method necessary to insure the greatest effect. All funds raised for charitable purposes, from whatever source contributed, should be disbursed under the direction of regularly appointed managers. A contribution directed by law, and placed under the management of such trustees, will produce much greater effect, than much larger donations spontaneously and irregularly made, and disbursed without relief, because without method. But it would be unkind in the state, to rely for relief towards its diseased citizens, upon the bounty of those among whom disease happened to attack them. It imposes an inequality in the

general burdens, which is harsh and ought not to be imposed by a magnanimous legislature. In this case, that reliance could not be made; the purchase of the ground and the erection of the buildings necessary for a Hospital, would produce an expence greatly beyond the ability of private contributors, however humane.

Under the aspect of the subject which is here presented, and it is believed to be the true one, it is manifest, that the benefits of such an institution as is contemplated, are not local. The interest which the citizens of Louisville take in the endowment of a Hospital, is not produced by any benefit peculiar to themselves. The resident sick are generally provided for in their own families or by the voluntary charity of their neighbors. It is the stranger, friendless and helpless, who, through the petitioners, begs the kind interference of the legislature. The petitioners pray not in behalf of themselves, but in behalf of those of their fellow-citizens, of whose wretchedness and disease it is their misfortune to be the spectators. The prayer is not that of those only who immediately sign and promote it, but should be considered as the prayer of all those, in every part of your state, whose fortune it might be to enjoy the blessings of your bounty.

On these considerations, the committee cannot hesitate to recommend an appropriation, and beg leave to report the accompanying bill.

R. C. ANDERSON, Jr. *Chairman.*

Which was received and read.

The bill therein referred to, authorizing an appropriation of money to the President and Directors of the Louisville Hospital, was received and read the first time and ordered to be read a second time.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Logan from the committee for courts of justice—1. A bill for the benefit of Polly Simpson and her children.

By Mr. Allen—2. A bill to repeal the charter of the Bank of Kentucky, and for other purposes.

By Mr. Witherspoon—3. A bill to establish a state Lunatic Hospital.

By Mr. Yancey—4. A bill for the benefit of the widow and heirs of Turner Morehead, deceased.

By Mr. Cogswell—5. A bill to amend an act to regulate taverns and restrain tippling houses, approved January 15, 1820.

And by Mr. Wickliffe—6. A bill to authorise sheriffs to sell real estate by virtue of executions issued upon a judgment of a justice of the peace.

Which bills were severally received and read the first time, and ordered to be read a second time.

Mr. A. Butler presented the petition of D. Hail and Samuel Wood, administrators of the estate of Edmund Morriss, deceased, praying that a law may pass to authorise a sale of some of the real estate of said decedent, for the purpose of discharging debts due by said estate.

And Mr. B. Taylor presented the petition of the Baptist Church at Frankfort, and of the pew holders and subscribers to said Church, praying a repeal or modification of the act authorising the same to be erected on the public square in the town of Frankfort.

Which petitions were severally received, read and referred; the first to the committee for courts of justice; and the second to the committee of religion.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth. Mr. Payne in the chair, which being resumed by the Speaker, Mr. Payne reported that the committee had according to order, had under consideration sundry resolutions laid on the table by Mr. Pope on the 17th ultimo, and had made some progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

And then the house adjourned.

## FRIDAY, NOVEMBER 2, 1821.

Mr. Luckett presented the petition of sundry citizens of the counties of Shelby, Jefferson and Henry, praying for the establishment of a new county out of a part of each of said counties.

Mr. Moore presented the petition of sundry citizens of the counties of Franklin, Washington and Mercer, praying for the establishment of a new county out of a part of each of said counties.

And Mr. Allen presented the petition of Samuel Campbell of Henry county, praying a divorce from his wife, Mary, late Mary Martin.

Which petitions were severally received, read and referred; the first and second to the committee of propositions and grievances; and the third to the committee of religion.

Mr. Wickliffe from the select committee to whom was referred, a bill to amend the several acts taxing billiard tables and for other purposes, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time to-morrow.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By MR. Lockett—1. A bill to appropriate one acre of the public ground in the town of Henderson, for the purpose of erecting thereon a Presbyterian Church.

By MR. May—2. A bill to amend an act appropriating the vacant lands of this commonwealth, approved February 14th, 1820.

By MR. H. M'Elroy—3. A bill to extend the limits of the town of Morganfield.

By MR. Kincheloe—4. A bill to authorise the establishment of a Branch of the Bank of the Commonwealth in the 13th judicial district.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the third bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. H. M'Elroy carry the said bill to the senate and request their concurrence.

A bill from the senate entitled, an act for the benefit of John A. Tarascon, was read a second time, amended and ordered to be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with,

*Resolved*, That the said bill as amended do pass, and that the title thereof be as aforesaid.

The yeas and nays being required on the passage of said bill by messrs. M'Clanahan and Alexander, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, W. O Butler, Calhoun, Cogswell, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Fletcher, Gaither, Gordon, Herald, Howard, Inglish, Jackman, Johnson, King, Litton, Lockett, Logan, Love, Luckett, B. Mason, J.

Mason, May, M'Connell, Moore, Mullens, Murray, O'Bannon, Patterson, Payne, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, C. H. Taylor, Thompson, Todd, White, Wickliffe, Witherspoon and Yantis—57.

Nays—Messrs. Allen, J. S. Anderson, Catlett, Cockerill, Cooper, Eaves, Goode, Green, Griffith, J. G. Hardin, M. Hardin, Kincheloe, Lecompte, Lynch, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Munford, Noland, Pearcy, Pendleton, Rudd, Sandford, Selby, Stone of Wayne, Talbot, B. Taylor, J. Taylor, Wiley, Yancey and Younger—33.

*Ordered*, That Mr. Luckett inform the senate thereof and request their concurrence in said amendment.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

The senate concur in the amendment proposed by this house to a bill from the senate entitled, an act for the benefit of John A. Tarascon.

And then he withdrew.

A message from the senate by Mr. Lackey:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act declaring the north fork of Kentucky river a navigable stream, with amendments, in which they request the concurrence of this house.

And then he withdrew.

Mr. Brents from the committee to whom was referred, so much of the governor's message as relates to the Bank of the Commonwealth of Kentucky and the sale of the lands west of the Tennessee river, made the following report, to-wit:

The committee appointed on that part of the Governor's message which relates to the Bank of the Commonwealth of Kentucky, have had the same under their consideration, and beg leave to submit the following report thereupon:

Your committee deem it unnecessary to say any thing in relation to the time when the bank and branches commenced their operations, the aggregate or partial sums loaned, the terms and manner of loaning, together with the calls on the debtors. The message of his excellency, the report of the president of the principal Bank, and the detailed reports from the officers of the branches, contain full and satisfactory information on these subjects. These documents are now before the legislature and the public at large. Your

committee deem it but an act of justice to the officers of the bank and branches, to say, that from the best information your committee have been able to obtain, the officers have commenced their operations with as much dispatch as practicable, and have conducted the affairs of the institution with zeal and ability.

The officers of the bank, influenced by the same humane, generous and honorable motives which gave rise to the bank, the relief of the pecuniary embarrassments of the country, have conformed to the spirit of the charter and the benignant disposition of the legislature, by whom they were appointed. Your committee are happy to find, that the reasonable expectations of the country, in relation to the bank as a measure of relief, have not been disappointed. Before the last session of the legislature the citizens had become extensively in debt, and from causes not within their control, the currency of the country was withdrawn, and they left without a market for their produce, to supply the deficiency. Many of the debts had become judgments, and a large portion of the citizens were in danger of falling a prey to this unfortunate state of things; general distress and gloomy despondence seemed to pervade society, and from this state of things they looked to the legislature of the country for relief: To relieve the distresses of the community and afford a circulating currency to the country, was this bank established. Since the emissions of paper from the bank and its branches, the debts of the country, both internal and external, have been in a state of rapid extinguishment and still continue to diminish. The condition of the country is greatly changed, and fair hopes are entertained of better times.

Your committee state, from the information they have received, that the calls of the bank upon its debtors have been promptly obeyed, and a disposition exists highly honorable to the borrowers of the money, to comply honestly and punctually with the engagements made with the bank. The interest on the loans has already contributed to increase the revenue of the country, and the bank under proper management, according to the principles of its charter, your committee have no doubt, will constitute the means of creating a fund for the endowment of seminaries of learning and internal improvements.

Your committee recommend the following resolutions:

1. *Resolved*, That it is the interest of the state, and your committee recommend the legislature, to support the Bank of

the Commonwealth and the credit of its paper, with all the resources of the country.

2. *Resolved*, That the management of said bank and the calls made on its debtors, are highly approved of, and that the calls ought to be continued.

3. *Resolved*, That the President and Directors of said bank ought not, at any time, in the issues of paper, to exceed the sum of three millions, authorised by the last legislature, and that the quantity in circulation ought to be gradually diminished as the debts of the country decrease.

4. *Resolved*, That a portion of the lands west of the Tennessee river, ought to be brought into market to assist the operations of said bank.

5. *Resolved*, As the opinion of your committee, that a law ought to pass, permitting the President and Directors of the Bank of Kentucky to pay over into the Bank of the Commonwealth, a portion of the state stock in said Bank of Kentucky immediately, and to continue to pay over at fixed annual periods, until the state stock should be completely withdrawn from the Bank of Kentucky; and that in making such payments, that the Bank of Kentucky ought to pay over a proportion of specie equal to the proportion of stock held by the state in the said Bank of Kentucky.

6. *Resolved*, As the opinion of your committee, that a metalic capital is the true basis of all banking institutions, and that the President and Directors of the Bank of the Commonwealth, ought to economize specie and the notes of solvent banks, preparatory to the payment of specie as soon as practicable.

S. BRENTS, *Chairman*.

*Ordered*, That the said report and resolutions be laid on the table, and that the public printers forthwith print 150 copies of said report and resolutions for the use of the members of this house.

Leave was given to bring in the following bills:

On the motion of MR. Cravens—1. A bill to establish an election precinct in the county of Trigg.

On the motion of MR. Moore—2. A bill to revive and continue in force, the law providing for the appointment of district attornies in this commonwealth.

On the motion of MR. Bradford—3. A bill for the benefit of the heirs of Adam Johnson, deceased.

Messrs. Cravens, Gordon and A. Butler, were appointed a committee to prepare and bring in the first; messrs.

Moore, Pope. Brents and Smith the second; messrs. Bradford. Patterson, B. Taylor and Shannon the third.

*Ordered*, That Mr. May be added to the committee appointed to prepare and bring in a bill to amend the law regulating divorces; and that Mr. Miller be added to the committee to whom was referred, a bill to amend the penal laws.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Howard in the chair, and after some time spent therein, the Speaker resumed the chair and Mr. Howard reported, that the committee had, according to order, had under consideration sundry resolutions to them referred, and had made some further progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

And then the house adjourned.

## SATURDAY, NOVEMBER 3, 1821.

Mr. Green presented the petition of Peggy Wooldridge, praying a divorce from her husband, Edmund Wooldridge.

And Mr. Todd presented the petition of the heirs of Edmund Wooldridge, deceased, praying that a law may pass authorising them to survey and carry into grant, certain entries on Treasury warrants made by their deceased father, on the lands west of the Tennessee river, in the year, 1781.

Which petitions were severally received, read and referred; the former to the committee of religion, and the latter to the committee for courts of justice.

Mr. Yantis from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of Joseph Houston, praying that he may be authorised to continue a mill dam across the Rolling fork of Salt river, *is reasonable*.

*Resolved*, That the petition of sundry citizens of Casey county, praying to be added to Mercer county, *is reasonable*.

Which being twice read, the first resolution was concurred in, and the second laid on the table.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the first resolution.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills and a resolution of the following titles: An act for the benefit of the widow and heirs of Isaac Howdyshelt, dec.: an act further to regulate the payment of the debt due the commonwealth for the sale of vacant land; an act further to indulge the settlers on the lands acquired by the treaty of Tellico; an act to change the place of holding elections in the eastern precinct in Hardin county; an act to establish a seminary of learning in the county of Hart; an act authorising the insertion of certain advertisements in the Emporium & Commercial Advertiser; an act for the benefit of John White and Sally Henderson; an act for the benefit of Margaret Watson; an act providing for the safe keeping of the stationary and furniture belonging to the legislature; and an act for the benefit of John A. Tarascon; and a resolution directing the laws of Kentucky, decisions of the court of appeals and journals of the general assembly, to be furnished the Transylvania University.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Crawford inform the senate thereof.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to-wit:

1. *Resolved*, That the petition of William P. Grigg, representing that his wife Sophia has abandoned him for more than three years, and has been guilty of adultery, and praying for a divorce, *be rejected*.

2. *Resolved*, That the petition of Nimrod Mason, representing that his wife Sally has become a public prostitute, that he has abandoned her, and praying for a divorce, *be rejected*.

3. *Resolved*, That the petition of William Spangler, representing that his wife Nancy, was, when he married her, pregnant by another man, of which he was ignorant, and praying for a divorce, *be rejected*.

4. *Resolved*, That the petition of Polly Dawson, representing that her husband, Barkley Dawson, abandoned her about three years ago and has left the state, and praying for a divorce, *be rejected*.

5. *Resolved*, That the petition of John Lillard, representing that his wife, Nancy, upwards of two years ago abandoned him, and praying for a divorce, *be rejected*.

6. *Resolved*, That the petition of Rosanna Patrick, representing that her husband, Wiley J. Patrick, has become idle and dissolute, made no provision for his family, has treated her in a cruel and inhuman manner—so much so, that she could not live with him, and praying for a divorce, *be rejected*.

7. *Resolved*, That the petition of Lydia Goard, representing that her husband, William Goard, abandoned her about eighteen months ago and is living in adultery with another woman in the state of Indiana, and praying for a divorce, *be rejected*.

Which being twice read, and the third, sixth and seventh resolutions having been severally amended, by striking out the words "*be rejected*" and inserting in lieu thereof the words "*is reasonable*," was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the said 3d, 6th and 7th resolutions.

A message from the senate by Mr. Lee, their secretary: *Mr. Speaker*,

The senate have passed a bill entitled, an act to increase and regulate the judicial districts, in which bill they request the concurrence of this house.

And then he withdrew.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By MR. Payne from the committee of religion—1. A bill for the relief of Nancy Garth.

And by MR. Cosby—2. A bill to amend the laws regulating attachments.

Which bills were severally received and read the first time and ordered to be read a second time.

Leave was given to bring in the following bills:

On the motion of MR. Alexander—1. A bill to amend an act entitled, an act for the benefit of Elizabeth Griffin, approved January the 23d, 1818.

On the motion of MR. Jackman—2. A bill to amend the laws now in force authorising the county courts to appoint attornies for the commonwealth in and for said courts.

On the motion of MR. Bradford—3. A bill to repeal the law giving ten per centum damages upon the dissolution of injunctions and the dismissal of appeals.

Messrs. Alexander, Younger and Pearcy, were appointed a committee to prepare and bring in the first; messrs. Jackman, Clark, Worthington, Dejarnet and Crawford, the second; and messrs. Bradford, Patterson, Todd, Brents and Pope, the third.

On motion,

*Ordered*, That messrs. M'Clanahan, Pope and R. C. Anderson, be added to the committee appointed to prepare and bring in a bill to amend the law concerning occupying claimants of land; and that messrs. O'Bannon, Yantis, Yancey, Fletcher and Howard, be added to the committee to whom was referred, so much of the governor's message as relates to the Bank of the Commonwealth, and the lands west of the Tennessee river.

The house then took up the amendments proposed by the senate to a bill from this house entitled, an act declaring the north fork of Kentucky river a navigable stream.

Which being twice read were concurred in.

*Ordered*, That Mr. Noland inform the senate thereof.

A bill from the senate entitled, an act for the benefit of the wife and children of Benjamin Herndon, was read a third time.

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Smith inform the senate thereof.

An engrossed bill entitled, an act for the benefit of Solomon Griffin and the heirs of Catharine Smith, was read the third time.

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Smith carry the said bill to the senate and request their concurrence.

An engrossed bill entitled, an act to amend the several acts taxing billiard tables and for other purposes, was read the third time.

It was then moved and seconded, to postpone the further consideration of the said bill until the first day of March next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Catlett and Jackman, were as follows, to wit:

Yeas—Messrs. Calhoun, Cravens, Lockett, Moore, Todd and Worthington—6.

Nays—Mr. Speaker, messrs. Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Catlett, Clark, Cockerill, Cooper, Cosby, Craig, Crawford, Desha, Duncan, Eaves, Fletcher, Gaither, Goode, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Howard, Hughes, Inglish, Jackman, King, Litton, Lecompte, Love, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, Noland, Payne, Pendleton, Pope, Rudd, Selby, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Wickliffe, Wiley and Yancey.—69.

It was then moved and seconded to fill the blank in the 1st section of the said bill with one thousand dollars, as the amount of the tax to be paid annually on each billiard table.

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by messrs. Jackman and Catlett, were as follows, viz:

Yeas—Messrs. Allen, J. S. Anderson, Catlett, Clark, Cockerill, Cooper, Crawford, Desha, Duncan, Fletcher, Goode, Green, J. G. Hardin, Herald, Jackman, Lecompte, Lynch, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Mullens, Munford, Noland, Payne, Pendleton, Smith, Stone of Wayne, Talbot, J. Taylor, C. H. Taylor, Thompson, Wiley, and Yancey—35.

Nays—Mr. Speaker, messrs. R. C. Anderson, Bradford, Brents, Brooking, Bruce, Calhoun, Cosby, Craig, Crawens, Eaves, Gaither, Gordon, M. Hardin, Howard, Hughes, Inglish, King, Litton, Lockett, Love, B. Mason, J. Mason, May, M'Connell, M'Cracken, Moore, Murray, Pope, Rudd, Selby, Shannon, Slack, Slaughter, Speed, Stone of Madison, B. Taylor, Todd, White, Wickliffe, and Worthington—41.

And then the house adjourned,

## MONDAY, NOVEMBER 5, 1821.

Mr. White presented the petition of Benjamin Bridges, Jr. praying that compensation may be made to him for his services and expences in apprehending and bringing to justice, William Shrodes, Andrew Shrodes and Angus Morrison, charged with the murder of William M'Ferrin of Jefferson county.

And Mr. Slack presented the petition of Daniel Robbins and Leonard Robbins, praying that a law may pass authorising a sale of a tract of land owned by them jointly, with their infant brother and sisters.

Which petitions were severally received, read and referred; the first to the committee of claims; and the second to a select committee of messrs. Slack, Worthington, Catlett, Hughes and M'Clanahan, giving said committee leave to report thereon by bill or otherwise.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker,*

I am directed to inform this house, that the governor did on this day approve and sign enrolled bills which originated in this house of the following titles:

An act further to regulate the payment of the debt due the commonwealth for the sale of vacant lands.

An act further to indulge the settlers on the lands acquired by the treaty of Tellico.

An act to change the place of holding elections in the eastern precinct in Hardin county.

An act to establish a seminary of learning in the county of Hart.

An act for the benefit of the widow and heirs of Isaac Howdyshelt, dec.

An act authorising the insertion of certain advertisements in the Emporium & Commercial Advertiser.

A resolution directing the laws of Kentucky, decisions of the court of appeals and journals of the general assembly, to be furnished the Transylvania University.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. Moore from the select committee to whom was referred, so much of the governor's message as relates to education and the Transylvania University, made the following report, to wit:

The committee to whom was referred, so much of the governor's message as relates to the Transylvania University, together with the memorial of the trustees of the Centre College of Kentucky, have had the same under consideration and beg leave to report:

It is unnecessary for your committee to expatiate on the policy and importance of encouraging seminaries of learning. Whatever may be the opinions entertained by the legislature in relation to the endowment of particular institutions, all unite in the sentiment, that intelligence is the life of liberty and constitutes that moral energy which is essentially necessary to perpetuate our free institutions.—Every people that are true to themselves, every representative body which is true to its constituents, will investigate and adopt the means by which knowledge can be most readily procured and most generally disseminated. It is not, however, the interests of general education, but the expediency of patronizing particular seminaries, which has been submitted to this committee. The Transylvania University is emphatically a state institution. It is not to be considered as the property of Lexington or Fayette county: it belongs to the people of the whole state; they established it for the common benefit: by them it has been partially endowed; by making its trustees elective by the legislature at stated periods, they have assumed its management. The people and the legislature should, therefore, look upon this institution as their own, which it should be their pride, as it unquestionably is their interest, to foster and protect. If the situation of a state institution be salubrious—if it be convenient to the great mass of citizens—if living be cheap and the neighboring society respectable, it matters little with the great body of the people, in what county or town it may be located. Colleges and Universities cannot diffuse themselves over our whole territory, or bring their incidental advantages to every neighborhood. The increase of knowledge is a general good, and if those who reside in the vicinity of literary institutions, derive pecuniary advantages from their situation, it is so far from a cause of jealousy and distrust, that it ought to stimulate the just and liberal legislator, to support them with redoubled zeal.—Who would refuse his fellow citizen a pecuniary advantage merely because he could not share its benefit? Where is the Kentuckian so ungenerous and so unwise, as to wish to stop the fountains of knowledge, because the whole people cannot drink money from its streams? That which dissem-

inates knowledge to the whole community, cannot be injurious, although it may also increase the wealth and prosperity of a particular section. If Lexington becomes rich it does not diminish the wealth of other towns. If she becomes populous, it does not weaken or oppress her neighbors; on the contrary, as her wealth and population increase, she performs a larger portion of public duties, and bears a greater weight of public burdens. It would not injure us in war, if Lexington could send ten thousand men for our defence, or impoverish us in peace, if she paid ten times her present proportion of the public taxes. If, therefore, Lexington and Danville derive advantages from being the seats of extensive seminaries—if Louisville become more populous and rich by a hospital and a canal, that circumstance constitutes no reason why those institutions and improvements should be frowned upon and discouraged by the rest of the community. It is not by a mutual warfare of town against town and section against section, that the interests of a great community can be promoted; but in the union of all for the advancement of each, by every method not inconsistent with the interests of the whole.

The Transylvania University is already established—its local position is healthy—it has considerable endowments, extensive buildings, able teachers and numerous students. Already it attracts attention from the north, the south, the east and the west. Young men from other states begin to flock to Kentucky to obtain a collegiate education, enhance our wealth by the expenditure of their money, spread far and wide a favorable opinion of our institutions, and increase the moral & political influence of our state. Our own youth educated at home, avoid the contagion of foreign habits and foreign prejudices, acquire a peculiar affection for their native state, and feel a just pride in comparing her benevolent institutions with those of her sister republics. The rapid advancement of the medical department of the university, excites universal admiration and deserves from this legislature peculiar regard. Few young men in the western country now cross the mountains to obtain a finished medical education; and should not the progress of this institution be retarded by legislative parsimony or unexpected mismanagement, the time is not distant when the sons of the east may be seen bearing from western fountains a portion of those healing waters which will flow in less abundant streams in the Atlantic region. The law department, though now in its infancy, may soon be expected, from the

talents and learning enlisted in its support, to attract the votaries of legal science from other states, and by disseminating a knowledge of general principles and creating uniformity of opinion, assimilate to each other the institutions of all the surrounding communities. Can this legislature look with indifference upon the moral power, the political influence, the character and glory which they may acquire for their own state, by a liberal policy towards her literary institutions? Other states in the west will exceed Kentucky in physical power and numerical strength, and it is only by cultivating her moral energies that she can maintain in this section of our confederacy, that ascendancy which she has won by her patriotism, her bravery and her eloquence.

By assuming the control of the Transylvania University, the legislature virtually pledged itself to support it. At a subsequent session that pledge was redeemed, by an appropriation to its use of the bonus paid by the Farmers' and Mechanics' Bank in Lexington, amounting to about $2,500 per annum. On the faith of this fund the trustees of the University made enlargements, employed teachers and contracted debts. The repeal of the Independent Bank charters, at once cut off the source of this liberal income and left them without means, not only to extinguish pre-existing debts, but to defray the annual expenditure of the University on the enlarged scale to which they had been encouraged by legislative munificence, to extend it. Is there no obligation on the legislature to discharge those debts which were contracted on a public pledge of funds, which, but for the unexpected interposition of this body, would have been adequate to their extinguishment? To your committee it appears a duty which this general assembly owes to the community, as well as that institution, to discharge its incumbent debts, and restore to it an income at least equal to that of which it was deprived, by the destruction of the Independent Bank in Lexington.

The Centre College of Kentucky, though more humble in its pretensions, is not less deserving of legislative patronage and protection. If its local position brings advantages to the people of Danville and its vicinity, those advantages have been purchased by their munificence towards this infant institution. By their zeal it has been established, and by their funds it has risen to its present importance. It has struggled into existence in the worst of times and the circle of its usefulness is already extensive. The

salubrity of its situation, the cheapness of the necessaries of life, and the character of the surrounding population, render it a fit resort for the youth of our country; and with the aid of a moderate endowment, the time is not distant when it will rank among our most flourishing institutions. It pretends not to rival the University at Lexington; but it asks the public bounty that it may emulate in doing good, the most splendid establishments. If any place in the state deserves more than others, the peculiar favor of the legislature, it is Danville. The beauty and healthfulness of its situation have long attracted universal attention. Once it was the seat of justice in the county where it is situated. Stripped of this advantage and thrust to the very borders of the county of which it had been the centre, it was deprived of all its incidental advantages and left with nothing to give it growth or celebrity, but the bounties of nature and the industry of its citizens. Though checked in its progress, it was not destroyed. Surrounded by a fertile soil and a rich population, it has not only sustained its importance, but has continued gradually to increase. Surely the people of a place so situated, which rose with such hopes, which has suffered such disappointments, and has struggled with misfortunes so successfully, deserves the patronage of this legislature, in an effort to regain from the establishment of an extensive seminary of learning, a portion of those advantages of which they have been so unfortunately deprived.

The idea that one state cannot sustain more than one of the higher seminaries of learning is unreasonable in itself, and is not supported by the evidence of experience. Massachusetts has an university, a college and a theological seminary, all of which are in a flourishing condition. Nor does the college at Williamsburg impair the splendor or diminish the usefulness of the university at Cambridge.—Vermont has two colleges, with a population scarcely equal to half that of Kentucky. Rhode-Island, with a population of 80,000, supports a respectable college, and surely a state with 600,000, may support more than one. New England has a population about double that of Kentucky—has eight colleges and universities, most of them filled with students. New York, Pennsylvania, Virginia, and even Ohio, have each more than one college; nor is it perceived that any injury arises therefrom. It is true, that in each state one gains a more extensive celebrity and assembles a greater number of students than the rest; but this does not

destroy their usefulness more than the splendid benevolence of a president destroys the charities of his more humble fellow-citizens. Your committee see no harm in a multiplication of colleges, or a rivalship between them. In proportion as their numbers are increased, the means of education are extended to more of our citizens, and their rivalships cannot fail to be useful, as they are exerted only in the multiplication of students and the emulation of teachers.

From the foregoing considerations, your committee recommend the adoption of the following resolution, viz:

*Resolved*, That the net profits of the branch of the bank of the Commonwealth, located in the 3d judicial district, ought to be appropriated to the Transylvania University; and that one half of the net profits of the branch of said bank, located in the 9th judicial district, ought to be appropriated to the Centre College of Kentucky.

T. P. MOORE, *Chairman.*

Which being twice read the resolution was then amended to read as follows, viz:

*Resolved*, That ought to be appropriated to the Transylvania University; and that ought to be appropriated to the Centre College of Kentucky.

A division of the question being called for, the question was first put on concurring in the first member of the resolution as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Cockerill and Noland, were as follows, to wit:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Buford, A. Butler, W. O. Butler, Calhoun, Clark, Cravens, Davis, Desha, Fletcher, Howard, Hughes, Jackman, King, Lockett, Logan, Love, May, M'Connell, M'Millan, Moore, Murray, Pearcy, Selby, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, B. Taylor, C. H. Taylor, Todd, Warfield, White, Witherspoon and Worthington—43.

Nays—Messrs. Allen, J. S. Anderson, Bruce, Catlett, Cockerill, Cooper, Craig, Duncan, Eaves, Gaither, Goode, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Inglish, Litton, Lecompte, Lynch, B. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, Noland, O'Bannon, Payne, Pendleton, Rudd, Sandford, Stone of Wayne, Talbot, J. Taylor, Thompson, Wiley, Yancey and Younger.—41.

The second member of said resolution, was then concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Smith moved the following resolution, viz:

*Resolved*, That dollars be appropriated for the purpose of opening the navigation of Rockcastle river.

Which being twice read, was committed to a select committee of messrs. M'Connell, Smith, Love, Brents, Calhoun, Howard and Moore.

The following bills were reported from committees appointed to prepare and bring in the same, viz.

By mr M'Millan from the committee of propositions and grievances—1. A bill authorising Richard L. Walker and Nathan Harris, to erect a mill dam across Rough creek in Ohio county.

And by mr. J. G. Hardin—2. A bill for disposing of the lands east of the Tennessee river and south of Walker's line, and north of latitude 36° 30'.

Which bills were severally received and read the first time, and ordered to be read a second time.

Leave was given to bring in the following bills:

On the motion of mr. Warfield—1. A bill to authorise the editors of the Republican Orbit, a newspaper printed in Cynthiana, to insert certain advertisements.

And on the motion of mr Clark—2. A bill to regulate the fees of justices of the peace.

Messrs. Warfield, Griffith and Jackman, were appointed a committee to prepare and bring in the first; and messrs. Clark, Allen, Jackman, Shannon, A. Butler, J. G. Hardin, Howard and Brents, the second.

An engrossed bill entitled, an act to amend the several acts taxing billiard tables and for other purposes, was again taken up.

It was then moved and seconded, to fill the blank in the first section of the bill with "*eight hundred dollars*," as the amount of tax to be paid on each billiard table.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Catlett, and C. H. Taylor, were as follows, viz:

Yeas—Messrs. Allen, J. S. Anderson, Catlett, Clark, Cockerill, Cooper, Desha, Duncan, Goode, Green, J. G. Hardin, Jackman, Lecompte, Lynch, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Mullens, Munford, No-

land, O'Bannon, Payne, Pearcy, Pendleton, Rudd, Slaughter, Smith, Stone of Wayne, Talbot, J. Taylor, C. H. Taylor, Thompson, Wiley, Yancey and Younger—37.

Nays—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Calhoun, Craig, Cravens, Davis, Eaves, Gaither, Gordon, M. Hardin, Herald, Howard, Hughes, Inglish, King, Litton, Lockett, Logan, Love, B. Mason, May, M'Connell, M'Cracken, Moore, Murray, Sandford, Selby, Shannon, Slack, Speed, Stone of Madison, B. Taylor, Warfield, White, Witherspoon and Worthington—45.

The said blank was then filled with $500.

The said bill being amended by an engrossed clause by way of rider—

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

The yeas and nays being required on the passage of the said bill by messrs. Catlett and C. H. Taylor, were as follows, viz.

Yeas—Messrs. Allen, J. S. Anderson, Brents, Catlett, Clark, Cockerill, Cooper, Craig, Crawford, Desha, Duncan, Fletcher, Goode, Green, J. G. Hardin, Herald, Inglish, Jackman, Litton, Lecompte, Lynch, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Mullens, Munford, Murray, O'Bannon, Payne, Pearcy, Pendleton, Rudd, Slaughter, Speed, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Wiley, Witherspoon, Yancey and Younger—46.

Nays—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Calhoun, Cravens, Davis, Eaves, Gaither, Gordon M. Hardin, Howard, Hughes, Lockett, Logan, Love, B. Mason, May, M'Connell, M'Cracken, Moore, Noland, Sandford, Selby, Shannon, Slack, Smith, Stone of Madison, Todd, Warfield, White and Worthington—38.

*Ordered*, That Mr. Jackman carry the said bill to the senate and request their concurrence.

Mr. Shannon presented the petition of William T. Henderson, praying further compensation for his services for surveying and laying off into townships and sections, the lands west of the Tennessee river, the amount heretofore allowed him having been exhausted in the payment of his expences, in making said surveys.

Which petition was received, read and referred to a select committee of messrs. Shannon, Brents, Logan, Fletcher, Howard, O'Bannon, A. Butler and B. Taylor.

The following bills were severally read a second time, viz: 1. A bill to amend the law regulating the action of detinue; 2. a bill to establish an election precinct in the east end of Bourbon county; 3. a bill declaring Big Barren river further navigable: and 4. a bill from the senate entitled, an act to amend the law limiting the time of bringing suits.

The first was laid on the table; the second was committed to a select committee of messrs. Cravens, May, Inglish and Cogswell; the third was ordered to be engrossed and read a third time to morrow; and the 4th was committed to a committee of the whole house on the state of the commonwealth for Thursday next.

And then the house adjourned.

## TUESDAY, NOVEMBER 6, 1821.

Mr. Eaves presented the petition of Sally Smith, praying a divorce from her husband, Hugh Smith.

Which was received, read and referred to the committee of religion.

A message from the senate by Mr. Lee, their secretary:

*Mr. Speaker,*

The senate have received official information, that the governor did on the 27th ultimo, approve and sign enroled bills and resolutions which originated in that house, of the following titles:

An act to allow an additional number of justices of the peace to certain counties.

An act to amend an act to establish a turnpike by the way of Williamsburg, Whitley county.

An act allowing further time to the county court of Henry, to make out and return their lists of taxable property for the year 1821.

An act authorising the appointment of an additional number of constables in certain counties.

A resolution for the appointment of joint committees to examine the different offices.

Resolutions concerning the post office department.

And a resolution for appointing a joint committee to examine the Bank of Kentucky.

And on the 5th instant, those of the following titles:

An act for the benefit of John White and Sally Henderson.

An act for the benefit of Margaret Watson.

An act providing for the safe keeping of the stationary and furniture belonging to the legislature.

An act for the benefit of John A. Tarascon.

They have passed a bill which originated in this house entitled, an act to extend the limits of the town of Morganfield; and they have passed a bill entitled, an act for the benefit of the sheriff of Caldwell county—in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to-wit:

*Resolved*, That the petition of John G. Meaux, representing that his wife Jane abandoned him in the year 18 5, that he has made ample provision for her, and praying for a divorce, *be rejected.*

*Resolved*, That the petition of Abraham Vannetton, representing that his wife, Peggy, has abandoned him for about three years and has been guilty of adultery, and praying for a divorce, *be rejected.*

*Resolved*, That the petition of Polly Nixon, representing that her husband, Joseph Nixon, is of bad character, has been indicted as a vagrant and is entirely worthless, and praying for a divorce, *be rejected.*

*Resolved*, That the petition of John Hornback, representing that his wife, Nancy, has abandoned him for about three years and is living in a state of adultery with other men, and praying for a divorce, *be rejected.*

*Resolved*, That the petition of Peggy Wooldridge, representing that her husband, Edmund Wooldridge, has abandoned her ever since 1814 and has made no provision whatever for her support, and praying for a divorce, *be rejected.*

*Resolved*, That the petition of Samuel Campbell, representing that in a short time after his marriage in 1820, his wife, Mary, was delivered of a mulatto child, of which she was pregnant at the time of their marriage and of which he was ignorant, and praying for a divorce, *is reasonable.*

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the last resolution.

Mr. Yantis from the committee to whom was referred, the memorials of John Kenney and Thomas T. Barr, exhibiting certain charges against Benjamin Mills, Esq. a Judge of the Court of Appeals, and praying his removal from office, made the following report:

The select committee to whom was referred, the charges exhibited against Benjamin Mills, Esq. one of the Judges of the Court of Appeals, have had the same under consideration, and have examined many witnesses on the part of the prosecution and defence, whose testimony is herewith reported and submitted, and we beg leave to submit the following resolution:

*Resolved*, That no charge has been supported by evidence which can authorise his removal from office, or the institution of an impeachment against the said judge.

Which being twice read, was committed (with the accompanying documents) to a committee of the whole house on the state of the commonwealth, for to-morrow.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By Mr. Warfield—1. A bill to authorise the editors of the Republican Orbit, a newspaper printed in Cynthiana, to insert certein advertisements.

And by Mr. Howard—2. A bill appointing trustees for the town of Boonsborough, and for other purposes.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the first bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Warfield carry the said bill to the senate and request their concurrence.

Mr. Cravens from the select committee to whom was referred, a bill to establish an election precinct in the east end of Bourbon county, reported the same with amendments.

Which being twice read were concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be amended to read "an act to establish election precincts in certain counties."

*Ordered*, That Mr. Cravens carry the said bill to the senate and request their concurrence.

Mr Brents from the committee to whom was referred, so much of the governor's message as relates to the lands west of the Tennessee river, made the following report:

THE committee appointed to enquire whether the lands southwest of the Tennessee river, in the bounds of this state, have been duly surveyed, laid off and marked, upon the ground as reported by the surveyor appointed in conformity to the "act to provide for laying off the lands west of the Tennessee river, into townships and sections," approved February 14, 1820; and also to enquire, whether the military claims on said lands have been surveyed and returned to the Register's office, pursuant to the "act for surveying the military claims west of the Tennessee river," approved December 26, 1820, have had the said several subjects under their examination, and thereupon report as follows:

Your committee on being constituted for the purposes aforesaid, proceeded to that course of examination which in their judgment seemed best calculated to the ascertainment of truth; and to this end, your committee caused William T. Henderson, the surveyor on the part of the state appointed to lay off said lands into townships and sections, to come before us with several of his deputies and others; as also to be brought before us the original map of said lands, and the book made out by the surveyor containing the description of the different townships, sections and quarter sections, which map and book have been by the surveyor heretofore returned to the Register's office and there preserved. Your committee examined the said map and book and found them made out with neatness and perspicuity, and corresponding in representation and description with each other; and from the examination of the said surveyor, deputies and others, your committee have entire confidence, that the surveying and laying off said lands into townships, sections and quarter sections, have been done with care and fidelity, and the corners and lines of the townships, sections and quarter sections plainly marked on the ground, as reported by the surveyor, and in conformity to the act before recited, passed 14th February 1820. The length of time employed, and the number of respectable deputies and hands engaged in the

service, forbid the idea that any imposition can have been wrought on the government.

Your committee further state, that at the time of executing the surveys of the townships, sections and quarter sections, and still later, of the military claims, the country was a wilderness, covered in many places with thick cane and timber, difficult to penetrate—in some places, with lakes of water, and in others with tall prairie grass and but very little timber; from which circumstances, your committee conclude that persons without the use of instruments, unacquainted with the country and without a description of the townships, sections and quarter sections, might experience difficulty in tracing the lines and finding the corners, and in many instances it might be impossible; but with reasonable diligence and the use of the proper means, it is believed no serious difficulty could occur, in tracing the lines and finding the corners.

Your committee further state, that since the book containing the descriptions of said townships, sections and quarter sections has been lodged in the register's office, no copies or extracts have been taken therefrom, nor has the register of the land office or other person been authorised to make out copies therefrom; and that the surveyor of the military claims has not been furnished with a copy of said book.

Your committee further state, that it appeared, the manner of making the corners of townships and sections, was, to mark on a tree, (according to law,) where one stood in the place, and to mark on other trees nearest thereto, and to note in the description the bearings of such trees from the corner; and in the barrens, where there was no timber at the corner, a stake was planted and trees marked at some convenient distances, and the bearings noted in the surveyor's report, or posts were planted in the corners of the sections. Should the corner post or tree, in any such case, be removed by the frequent burnings of the prairie grass, or by other accident, the difficulty of finding the corner would be increased, without the use of a compass and the notes of the survey; but with these, the position of a lost corner might be ascertained, by running from the bearing trees, or by extending the lines from the fixed corners of the neighboring townships or sections.

Your committee further state, that the law of the last session for surveying the military claims in the bounds aforesaid, required "the surveyor, in the execution of every survey, to ascertain the distance and bearing of the near-

est corner of a township or section to the beginning corner of a survey by him made; and also to ascertain the distance and bearing of the nearest corner of a section or township to each corner of every survey by him made, and report the same in the plat and certificate of survey, by the numbers and description of timber agreeably to the map or plat deposited in the register's office by William T. Henderson, surveyor for the state." The surveyor of the military claims, without being furnished with the description of the township and sectional surveys, sent his deputies into the country to make the military surveys. It is easy to conceive the difficulties they would soon experience, from the lack of the necessary guide, the description of the township and sectional corners. After the most faithful exertions may have been used by the deputies, to comply with the before mentioned requisition of the act of the last session, it would, in most instances, be difficult, and in many impossible, without more labor and trouble than could be reasonably required. The deputies having gone into the country to execute the surveys, and being unable to comply with the requisition before mentioned, proceeded and have executed surveys on about two thirds of the lands claimed by entries on military warrants, and have returned plats and certificates of survey to the office of the principal surveyor, who has declined recording them, owing to the omissions to comply with the requisition before mentioned. The plats and certificates remain yet in his office; none have been returned to the register's office.

Your committee state, that the fees for executing the military surveys are low, and are rendered the more inadequate from the distance they have to travel to and from the land, and from the additional circumstance that the surveyors have to supply themselves with hands and provisions in a wilderness. The duties of the military surveyor become still more oppressive, when he is required to add to his labors that of quitting his military survey at every corner, to ascertain (without any guide) the course and distance to the corner of the nearest township or section, and to note the numbers and description of timber.

Your committee state, as their opinion, that no great inconvenience can arise from the omissions to comply with the requisition aforesaid in the plats and certificates made out or to be made out. It is presumed the object of the law was to enable the principal surveyor to make out a connexion, shewing the extent and boundaries of the military surveys,

and also to shew the unappropriated soil belonging to the state. This object, it is believed, can be effected without imposing on the claimants of military lands the necessity, expence and inconvenience of tracing the township and sectional lines, to ascertain their corners. The surveyor, by law, is required to make such connexion—a duty he will be able to perform by protracting the military surveys on the map, as they are in connexions, and call for noted places which are already laid down.

Your committee state, that it appears there are many large entries and surveys of lands on the west of Tennessee river, in the bounds aforesaid, made on treasury warrants, upon the validity of which your committee do not deem it their duty to report, except to state that the surveys and patents thereon contain large quantities of surplus land beyond the quantities called for in the surveys and patents, and that on making the military surveys they are found to interfere with each other, and also to interfere with the treasury warrant claims aforesaid.

Your committee, having given the foregoing statement of facts and opinions, in obedience to the orders of the house to which they belong, have come to the following resolutions thereupon, to wit:

1. *Resolved*, as the opinion of your committee, that William T. Henderson, the surveyor appointed on the part of this state to lay off the lands west of Tennessee river into townships and sections, has performed that duty with fidelity.

2. *Resolved*, as the opinion of your committee, that a law ought to pass authorising the plats and certificates of military surveys of land west of Tennessee river, to be received, registered, and grants issued thereon, notwithstanding the bearings and distances of the nearest townships or sections to the corners of such military surveys, may not be noted in the plats and certificates of said military surveys respectively.

SAMUEL BRENTS, *Chairman*.

Which being read, the first resolution was concurred in, and the second was laid on the table.

*Ordered*, That the public printers forthwith print 150 copies of said report and resolutions for the use of the members of this house.

On motion,

*Ordered*, That the report of the committee of propositions and grievances, favorable to the petition to add a part of Ca-

sey county to the county of Mercer, be recommitted to the said committee.

A message from the Governor by Mr. Breckinridge his secretary :

*Mr. Speaker.*

I am directed by the governor to lay before this house a message in writing, accompanied by sundry documents.

And then he withdrew

Mr. Murray moved the following preamble and resolutions, to-wit :

Whereas the citizens of this state are looking forward with much solicitude, to the approach of the period when it shall be in the power of their representatives to establish such a system of general education throughout the state, as shall enable the most humble of its citizens to acquire that degree of intelligence which will qualify them to appreciate the value of republican institutions, and judge with propriety of the pretensions of public men and the probable tendency of public measures ; and as they view the present moment of peace, when the citizens of the state are free from the payment of direct taxes, or any burthens, except the ordinary revenue of the state, as peculiarly favorable to the commencement of a system so much desired, and which would be regarded as an index to the future destinies of their country ; and especially, as considerable revenues are likely to arise to the state, from the favorable operations of the Bank of the Commonwealth of Kentucky : Therefore,

*Resolved by the House of Representatives of the Commonwealth of Kentucky*, That of the clear profits arising, and which may hereafter arise to the state from the operations of the Bank of the Commonwealth of Kentucky, ought to be set apart and forever maintained as a separate fund for the establishment and support of schools of common education throughout the different counties in this state, under such regulations as may hereafter be adopted by the general assembly.

Which being twice read was laid on the table.

*Ordered*, That the public printers forthwith print 150 copies of said preamble and resolution for the use of the members of this house.

On motion,

*Ordered*, That the committee of the whole house on the state of the commonwealth be discharged from the further consideration of a bill to amend the act for surveying the military claims west of the Tennessee river, approved De-

cember 26th, 1820; and that the same be referred to a select committee of messrs. A. Butler, Brents, B. Taylor, Payne, Clark, Logan and R. C. Anderson.

And then the house adjourned.

## WEDNESDAY, NOVEMBER 7, 1821.

Mr. King presented the petition of sundry citizens of Adair, Cumberland and Wayne counties, praying for the erection of a new county out of a part of each of said counties.

Mr. Cowan presented the remonstrance of sundry citizens of Mercer county, against the proposed formation of a new county out of the counties of Franklin, Mercer and Washington.

Mr. Gaither presented the remonstrance of sundry citizens of Adair county, against the proposed formation of a new county out of the counties of Adair, Cumberland and Wayne.

And Mr. J. G. Hardin presented the remonstrance of sundry citizens of Barren county, against the proposed formation of a new county out of the counties of Barren, Allen and Monroe.

Which petition and remonstrances were severally received, read and referred to the committee of propositions and grievances.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration the petition of sundry citizens of the counties of Franklin, Washington and Mercer, praying for the formation of a new county out of part of each of said counties, and have come to the following resolution thereupon, to wit:

*Resolved*, That the said petition *is reasonable.*

*Resolved*, That the petition of sundry citizens of Casey county, praying to be added to Mercer county, *is reasonable.*

Which being twice read, the first resolution was recommitted to the committee of propositions and grievances, and the second was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said second resolution.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of

the following titles: An act declaring the north fork of Kentucky river a navigable stream; and an act to extend the limits of the town of Morganfield.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. A. Butler from the committee of privileges and elections, made the following report, viz:

The committee of privileges and elections have, according to order, had under consideration the returns from the sheriffs of the several counties within this commonwealth, and having examined the same, have agreed to the following report, to wit:

It appears to this committee, that the following gentlemen were returned as duly elected to serve as members of the house of representatives, for the present general assembly, viz:

From the county of Adair, Nathan Gaither and Benjamin Selby.

From the county of Allen, Johnson J. Cockerill.

From the county of Boone, Benjamin Johnson.

From the county of Butler, John Herald.

From the county of Bath, Thomas Fletcher.

From the county of Barren and part of Monroe, Joel Yancey and Joseph G. Hardin.

From the county of Bullitt, James Alexander.

From the county of Breckinridge, David R. Murray.

From the county of Bracken, John H. Rudd.

From the county of Bourbon, Thomas Hughes, James M. Cogswell and Nicholas Talbot.

From the counties of Christian and Trigg, James C. Cravens and John Pendleton.

From the county of Cumberland and part of Monroe, Edwards King and Lemuel Williams.

From the county of Campbell, Alexander P. Sandford.

From the county of Clarke, William M'Millan and Colby H. Taylor.

From the county of Casey, William Goode.

From the county of Clay, James Love.

From the county of Caldwell, Hugh M'Cracken.

From the county of Daviess, Benjamin Duncan.

From the county of Estill, Jesse Noland.

From the county of Fayette, James E. Davis, John R. Witherspoon and George Shonnon.

From the county of Floyd, James Stratton and Samuel May.

From the county of Franklin and part of Owen, Benjamin Taylor and John H. Todd.

From the county of Fleming, James Crawford and John Taylor.

From the county of Greenup, Horatio Catlett.

From the county of Gallatin and part of Owen, William O. Butler.

From the county of Grayson, William Inglish.

From the county of Green, Samuel Brents and Liberty Green.

From the county of Garrard, John Yantis and Benjamin Mason.

From the county of Henderson, Francis Lockett.

From the county of Hopkins, William Gordon.

From the county of Hardin, Christopher Miller and Martin Hardin.

From the county of Hart, Richard J. Munford.

From the county of Henry, Charles H. Allen and Joseph Lecompte.

From the county of Harrison, Benjamin Warfield, and Samuel Grffith.

From the county of Jefferson, Richard C. Anderson, Jr. Lee White and Craven P. Luckett.

From the county of Jessamine, John Jackman and James Clark.

From the county of Knox, Andrew Craig.

From the counties of Lincoln and Rockcastle, Schyler Barnett and William Smith.

From the county of Lewis, Horatio Bruce.

From the county of Logan, Anthony Butler and Presley N. O'Bannon.

From the county of Livingston, William Thompson.

From the county of Muhlenburg, John S. Eaves.

From the county of Mason, Jacob A. Slack, William Worthington and Benjamin Desha.

From the county of Mercer, Thomas P. Moore, George C. Thompson and David G. Cowan.

From the county of Montgomery, Jilson Payne and John Mason, Jr.

From the county of Madison, Thomas C. Howard, James Stone and James Dejarnett.

From the county of Nelson, Thomas Speed, Charles A. Wickliffe and Elias Kincheloe.

From the county of Nicholas, William M'Clanahan and Hugh Wiley.

From the county of Ohio, John Calhoun.

From the county of Pulaski, George B. Cooper.

From the counties of Pendleton and Grant, Stephen Mullens.

From the county of Simpson, William Lynch.

From the county of Scott, Thomas H. Bradford and James Patterson.

From the county of Shelby, John Younger, William Logan and George Pearcy.

From the county of Todd, John S. Anderson.

From the county of Union, Hugh M'Elroy.

From the county of Whitley, Burton Litton.

From the county of Warren, Robert F. Slaughter and Samuel S. Brooking.

From the county of Woodford, James M'Connell and John Buford.

From the county of Washington, Samuel M'Elroy, John Pope and Dabney C. Cosby.

And from the county of Wayne, James Stone.

Which was received and adopted.

Mr. Howard from the committee of claims, made the following report, viz:

The committee of claims have, according to order, had under consideration the petition of Sevier Lewis, praying that a reasonable compensation may be made him out of the public treasury, for apprehending and bringing to justice, Elisha English, a fugitive from the justice of this state, who was apprehended in the state of Indiana; and have come to the following resolution thereupon, to-wit:

*Resolved*, That said petition *is reasonable*; and that he ought to be allowed the sum of one hundred dollars.

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Bradford from the select committee appointed for that purpose, reported a bill to repeal the law giving ten per centum damages upon the dissolution of injunctions and the dismissal of appeals.

Which was received and read the first time and ordered to be read a second time.

The message of the governor, communicated to this house on yesterday by the secretary of state, was taken up and read as follows, viz:

*Fellow-Citizens of the Senate,*
*and of the House of Representatives,*

I beg leave to lay before you for your information and consideration, copies of various public documents and official communications, which I received during the recess of the general assembly, and which embrace objects connected with the public good.

The letter of Governor Robinson and the accompanying report and resolution, expressive of the views and sentiments of the legislature of Louisiana on the subject of hospitals, I hope will occupy your serious deliberations. My personal observation convinces me, that you cannot render to your constituents a more humane service, than by aiding in the accomplishment of the philanthropic measures contemplated by the state of Louisiana.

JOHN ADAIR.

Inclosure No. 1, being a communication from the governor of the state of Illinois, inclosing a copy of a resolution of the general assembly of that state, requesting a grant to her by the state of Kentucky, of concurrent jurisdiction on the river Ohio, so far as the same forms a common boundary to both states, was referred to the committee for courts of justice.

Inclosure No. 2, being a letter from M. Carey & Sons to the governor, advising him that they have published for the government of the United States, "general regulations for the army, or Military institutes," and proposing to furnish him with a supply of them for the use of the militia of this state, was referred to the committee to whom was referred a bill to amend the militia law.

Inclosures Nos. 3 & 4, are in the following words, viz:

STATE OF OHIO,

COLUMBUS, January 22, 1821.

SIR—I have the honor to transmit to you a report, approved by the general assembly of this state, with accompanying resolutions, on the subject of certain proceedings of the Bank of the United States; and to request that you will be pleased to lay the same before the legislature of the state over which you preside, the expression of whose opinion on

the matters contained in the said report and resolutions, is requested by the general assembly of this state.

I have the honor to be, sir, with great respect,
Your obedient servant,
ETHAN A. BROWN.

*His Excellency the Governor of Kentucky.*

A copy—Test,
J. CABELL BRECKINRIDGE, *Sec'ry.*

## REPORT.

FROM the papers submitted to the committee, it appears, that in the month of September 1819, the Bank of the United States exhibited a bill in chancery, before the circuit court of the United States, then sitting at Chillicothe, against Ralph Osborn, auditor of the state of Ohio, and obtained, in that court, an order of injunction against him, prohibiting him, as auditor, from performing the duties enjoined upon him by the "act to levy and collect a tax from all banks, and individuals, and companies, and associations of individuals, that may transact banking business in this state, without being authorised to do so by the laws thereof."

It further appears, that the auditor, not being satisfied, before the time appointed by law for him to act, that an injunction had been ordered, issued his warrant in conformity to the law, under which the tax imposed by law was collected and paid into the state treasury.

It further appears, that the circuit court of the United States, at their last term, adjudged that this act of official duty was a contempt of court, for committing which they awarded a writ of attachment against the auditor, returnable to January term next.

It appears, also, that at the September term last, upon the application of the Bank of the United States, an order was made, allowing them to file an amended and supplemental bill, making Samuel Sullivan, the treasurer of state, a defendant, "*as present treasurer of Ohio, and in his private and individual character;*" and also making Hiram Mirick Curry, late treasurer, and John L. Harper, the officer that collected the tax, defendants. Upon the filing of which amended and supplementary bill, a further order of injunction was made, prohibiting the treasurer of state from "negotiating, delivering over, or in any manner parting with or disposing of" the money collected for tax, and paid into the state treasury according to law. And it further appears, that besides these proceedings, an action of trespass,

at the suit of the Bank of the United States, was commenced and made returnable to the last September term of the same circuit court, against Ralph Osborn, John L. Harper, Thomas Orr, James M'Collister, John C. Wright and Charles Hammond, in which the plaintiffs have filed a declaration, charging, among other things, the taking and carrying away the same sum of money in the proceedings in chancery specified, under colour and pretence of the law of Ohio.

Whatever attempt may be made to characterise this proceeding as a controversy between individuals, it is evident that its practical effect is to make the state a defendant before the circuit court of the United States. In every thing but the name, the state is the actual defendant. No other interest but that of the state is involved. In every stage of the enquiry, the rights, interests and powers of the state only are presented for adjudication. The final process must operate direct upon the state, and, if effectual, must derange totally the official accounts both in the auditor's and treasurer's department; for if there be a specific decree, as prayed for in the supplemental bill, a specific execution may be sent into the state treasury, to carry that decree specifically into effect.

Nor is it only in its practical effect, that the real character of this proceeding is to be perceived. It is distinctly avowed in the body of the bill, both by naming the general assembly of Ohio, as the offending party, and by calling on the court to restrain the auditor of state from performing official acts in his official character. And, in fact, it would seem, from the foundation upon which the injunction was allowed, both on the first and second application, that the court must have regarded it as substantially a proceeding against the state.

All judicial proceedings are founded upon facts established judicially. The transactions of individuals are verified by testimony judicially taken. But the proceedings of states and governments are regarded as of public notoriety, to be received upon the evidence of general history. When an individual applies for an injunction against another individual, his application is never regarded, unless the matter alleged in his petition be established by his own affidavit, or that of others. The court never restrains an individual in the exercise of his supposed rights, upon the naked suggestion of another. The law of Virginia, of Kentucky and of Ohio, alike requires, that before any injunction shall

be granted, the judge or court granting it, shall be satisfied by affidavit, at the foot of the bill, or by other means, that the allegations in the bill are true. The practice of the federal court and federal judges in Ohio, has been to require proof. No injunction has been granted upon mere suggestion, until that against Ralph Osborn, auditor of state; no other injunction has been granted upon mere suggestion, but that against Samuel Sullivan, treasurer of state. Both these injunctions were granted instantly, upon application by bill alone, without any proof being offered or required, that one single allegation contained in the bill was true. This departure from the common course of proceeding can be accounted for and vindicated upon but one ground—that the party substantially a defendant was a sovereign state, all of whose proceedings were matters of public notoriety, of which the court was informed without proof in the ordinary mode.

By the original provisions of the constitution of the United States, the federal judiciary were empowered to take cognizance of controversies between a state and citizens of another state; but by the same instrument this jurisdiction was vested exclusively in the supreme court. A state never could be held to answer or made amenable before a circuit court of the United States. By the eleventh amendment to the constitution, this power to call a state to answer before the supreme court, at the suit of a citizen, was wholly taken from the federal judiciary. It is perfectly clear, that before this amendment to the constitution was made, the circuit court of the United States could not have entertained jurisdiction of a suit in equity, enjoining the state officers from executing the state laws, in a case of the direct action of the state sovereignty, like that for the collection of taxes. The principal, and not the ministerial agent, is always the proper defendant in such a suit. That principal, being directly and personally amenable in the supreme court, his case could not be drawn to a tribunal that had no jurisdiction over the principal, by instituting a suit against the agent alone. The state, before the amendment, could be sued in equity before the supreme court of the United States, and could, in a proper case, be there enjoined. In that court only, could a state be prohibited from carrying her laws into operation. For that very reason, her officer could not be enjoined in a circuit court. It would be to subject the interest and rights of the state to the decision of a tribunal that had no jurisdiction to decide upon them, and

where the state could not be admitted a defendant to defend them. It is therefore a strange doctrine, to maintain that an amendment to the constitution, expressly forbidding the judges so to construe the constitution as to call states before the supreme court as defendants, at the suit of individuals, is to operate as vesting the circuit courts with power to do that indirectly, which they never had any direct power to do. The amendment was intended to protect the states from a direct responsibility, upon process before the supreme court, the only tribunal before which they were then liable to be called to answer. By the construction now attempted, this amendment is made to vest the circuit court with a jurisdiction equally effective against the state, though indirect in its form of proceeding. It effects nothing but the degradation and humiliation of the states. Instead of the distinction of being called to defend its rights before the highest judicial tribunal of the nation, the state is reduced to the level of the most ordinary citizen, and made answerable in an inferior tribunal. Instead of enjoying the privilege of managing directly its own interests, and absolutely controlling its own defence, the state must submit to the consequence of blending its interests with the timidity or treachery of others, and must be concluded by a decision made in a case which it is in the power of others to manage as they please. The committee are persuaded that such was not the object of the amendment, and that such is not the correct construction of the constitution.

It is asserted, that this is an individual proceeding against the persons named as defendants: that although the state cannot be sued, yet persons remain responsible, and may be made subject to every proper process. It has heretofore been deemed a sound maxim in ethics, that whatever could not be lawfully done directly, could not be justly effected by indirect means. If this maxim be regarded as the state never could be directly proceeded against in the circuit court, without a violation of the constitution, every indirect mode of proceeding ought to be considered inadmissible; but in fact, and substantially, this is not a proceeding against individuals.

A court of chancery proceeds against the person, and against the subject—in technical language, *in personam* and *in rem*. The proceeding in this case, is not against Ralph Osburn and Samuel Sullivan, for any matter in which they have an individual or personal concern; it is only in the performance of official duties, that the process of the court

interferes to control them. It was not for himself, or upon his individual account that Ralph Osburn issued his warrant to collect a tax from the Bank of the United States; it was for the state, and in his character as auditor, that he acted. It is not in the transaction of individual business, or upon his own contracts, that Samuel Sullivan is forbid to *dispose of or part with* particular funds; he is inhibited from paying away money received by him as treasurer, held by him as such, and for the disbursement of which he is officially responsible to the state.

A state, in the abstract, is an intangible entity, like a corporation; in substance, it is a community of individuals; it can only act by individual agents, and its power of action is completely destroyed, when these agents are restrained from acting. It is solemn trifling, to admit that a state cannot be sued in the circuit court, and at the same time insist that every agent that the state employs, may be controlled and restrained from performing his official functions, by the same circuit court.

The auditor of state is a ministerial agent in the executive department of the government; it is his duty to superintend the collection of the revenue; he acts direct for the whole people, upon each; in every one of his official acts, he exercises a portion of the sovereign power; and when he is restrained from acting officially, it is the sovereign power of the state that is restrained.

Injunctions to stay proceedings in the courts of law, are founded upon a different principle. They act upon the party, and not upon the court, and call in question the conduct of the party, not the justice or integrity of the judges. The people, too frequently called the government, never intend that one individual shall use their power to do injustice to another. Courts of chancery are instituted, not to control the courts of law, but to control individuals who may have obtained unconscionable advantages in the law courts. The proceedings of the chancery courts, is the act of the people; but it does not operate upon the people themselves, in and through the courts of law. It only withdraws the subject from the judgment of the people in their law court, to their judgment in their court of chancery, upon the principle that adequate justice cannot be administered elsewhere.

This injunction operates through the Auditor, upon the whole people of the state. He is their agent; his acts are their acts; he proceeds under their direction, and for their

sole benefit. They are responsible for his errors, and are bound to protect him from unjust responsibility.

If the injunction was intended, and did in fact, operate upon Ralph Osborn alone, his resignation or removal from office, would render it unavailing. His successor in office, would be at liberty to act, notwithstanding the injunction. But that this was not the intention, and is understood not to be the effect of this injunction, is placed beyond all doubt. The bill prayed not only, that Ralph Osborn, *Auditor of state*, but that all others whom it concerned, should be enjoined—and so the order of injunction was made. The court have judicially declared, that this order did not extend to Ralph Osborn and his agent alone; but to all who might act upon the subject. By resigning his office, after notice of an application for the injunction, Ralph Osborn would have ceased to have any concern in the subject of it. Yet we are distinctly given to understand, that his successor in office was enjoined, as well as every other agent or officer whom the law might appoint to perform any duty connected with the collection prohibited. This fact, alone, would seem decisive, that the proceeding is not personal against Ralph Osborn, but is direct against the Auditor of state.

It is charged in the supplemental bill, that the money collected was delivered to Hiram Mirick Curry, to keep upon deposite, and by him delivered to Samuel Sullivan, to keep in like manner; it is also charged, that at the time of receiving the money, Curry was treasurer of the state of Ohio, and at the time of delivering it to Sullivan, he was the successor of Curry: and the bill prays that Curry, as late treasurer, and Sullivan, as present treasurer, and also in their individual capacities may be made defendants; the bill also prays, that Sullivan may be enjoined from disposing of the specific monies, received by him upon account of the tax. This injunction too, is granted upon the suggestions contained in the bill, without any evidence that the money was paid to Sullivan, as alleged.

This proceeding is not merely personal against the treasurer, it is direct against the subject; and that subject is money in the state treasury, received by the treasurer as revenue of the state; receipted for as such, and as such carried into his official accounts. But this is not a proceeding against the state; because the complainants allege, that the nature and character of the whole transaction, forbids the supposition that the money was received by the defendants,

in the capacity of treasurer.' Thus the court are called to determine the whole transaction, to be illegal; and then to invest themselves with jurisdiction to reach the specific funds, by shutting their eyes to the real facts of the case, and supposing a state of things that never did exist.

When a state was liable to be sued before the supreme court, the process issued against the state, and the court directed a service to be made upon the governor, for the time being. If the proceedings in the present case are correct, it is now sufficient to issue process against the person who may happen to be treasurer, and name him both as treasurer and as an individual, and upon such process, at the mere suggestion of a complainant, prohibit him from using for the benefit of the state, any moneys paid to him officially, which it may be alleged were collected illegally. In due season a decree may be passed, for the specific restitution of the money thus claimed, and this decree will bind the treasurer, that may be in office when it is pronounced, and subject him to the responsibilities of a defendant. If he refuse to pay the money, the court may attach him for a contempt; if he does pay it without a legislative appropriation, he is liable upon his bond, and subject to impeachment. Such might have been the consequence of a judgment against a state, in the supreme court; and it was no doubt an apprehension of such result, that induced the amendment to the constitution, forbidding the federal courts to call a state before them as a defendant, at the suit of an individual.

It is evident that the principle of the proceeding secures to the federal tribunals every power supposed to be taken from them by the amendment. If the Auditor of state can be enjoined from acting officially; if the Treasurer can be decreed to pay back money received as revenue, upon the doctrine that the court consider them wrong doers, there is no case of the exercise of state power that may not be completly controled. The legislature levy a tax. The federal court are called upon, and upon motion, adjudge it to be contrary to the constitution of the United States: they regard the collector as a wrong doer, and enjoin him from collecting it. The tax is collected and paid into the state treasury; the federal courts are applied to; they pronounce the tax unconstitutional—the collection a trespass—the state treasurer a bailee for the claimant, and decree a restitution of the amount. The legislature of the state enact a law for the punishment of crimes—an individual is con-

victed under its provisions, and imprisoned in the penitentiary. He complains that the law under which he is convicted, is repugnant to the constitution of the United States. He calls upon the federal court for redress. The court decide the law to be unconstitutional, the conviction illegal, the keeper of the penitentiary a trespasser, and order the prisoner to be discharged. In such a proceeding they keep the state entirely out of view, and regard it as a mere personal matter. They shut their eyes to the real state of facts and assert that the nature and character of the whole transaction forbid the supposition that the state could have had any agency or concern in the imprisonment. In this manner the states may be placed at the foot of the federal judiciary, as well in its administration of criminal justice, as in its fiscal concerns.

In granting an injunction against the auditor of state, in the first instance, and in awarding an attachment against him for disobedience to that injunction, the federal circuit court in Ohio have unequivocally asserted a jurisdiction over the state and its officers, in the collection of revenue. The circumstances under which the attachment was ordered, admonish us that the jurisdiction thus asserted will be without reluctance enforced. The auditor will be fined or imprisoned, or both, for executing his official duty; and the state must either acquiesce in the correctness of the proceeding, and avert the consequence by retracing their steps; or, regarding it as an encroachment upon their just authority, must prepare to take such a stand against it, as the constitution and a just regard to their rights may warrant.

The committee conceive, that the proceeding in this case by bill in chancery and injunction against the auditor and treasurer, is, to every substantial purpose, a process against the state. The auditor and treasurer are defendants in name and in form only, and can only be made and regarded as defendants to evade the provisions of the constitution. From the view they have taken of the subject, the conclusion seems inevitable, that the federal court have asserted a jurisdiction which a just construction of the constitution does not warrant. And the committee conceive, that to acquiesce in such an encroachment upon the privileges and authority of the state, without an effort to defend them, would be an act of treachery to the state itself, and to all the states that compose the American Union.

The committee are aware of the doctrine, that the federal courts are exclusively vested with jurisdiction to declare, in

the last resort, the true interpretation of the constitution of the United States. To this doctrine, in the latitude contended for, they never can give their assent.

Every court of justice, where they have jurisdiction over the parties to the suit and the subject of controversy, are of necessity invested with power to decide every question upon which the rights of the parties depend: and their decision is conclusive, unless a superior court be invested with jurisdiction to review it. On this subject the powers of the federal and of the state judiciary are precisely the same. These powers are not founded upon any express constitutional provision, but result from the very nature of written constitutions and judicial duty.

Among other things, the constitution of the United States declares, that "no state shall pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts." A defendant prosecuted for a crime before a state court, may insist that the law upon which he is accused is *ex post facto*. If the state court decide in his favor, it is conclusive; because there is no law authorising the federal court to review it. If the decision be against him, it is, for the same reason, conclusive. No person can be criminally prosecuted before the federal courts for the violation of a state law. No appeal or writ of error from the decision of a state court, in a state prosecution, lies to the federal court. The interpretation of that provision of the constitution of the United States, which declares that no state shall pass an *ex post facto* law, is now exclusively vested in the state courts. Nor can the federal courts ever be vested, under the constitution, as it now stands, with effective jurisdiction to interpret and enforce this provision. They cannot be empowered to take the administration of criminal justice from before the state courts, in the incipient stages of a prosecution: and a writ of error after judgment, would clearly be a *suit at law*, in which the state must be defendant, and would come directly within the terms of the amendment.

In this case, then, the federal courts cannot now pronounce an effective judicial decision. They cannot possess themselves of jurisdiction over the parties, upon whom any decision they might make could operate. Yet individuals may contrive some feigned action, or make some feigned issue, and present to the federal court for decision a case, calling upon them, and thus empowering them to decide, that upon a particular state of facts, the operation of a state law would be *ex post facto* within the meaning of the provision of

the constitution of the United States. A decision thus obtained, would be entitled to respect, as the opinion of eminent men, but never could be regarded as a judicial declaration of the law of the land.

By an express provision of the constitution of the United States, a provision introduced purposely to effect that object, the states, in any controversies they may have with individuals, are placed beyond the jurisdiction of the federal courts. It would seem incontrovertible, that the amendatory article placed the states and the United States in a relation to each other different from that in which they stood under the original constitution: Different in this, that in all cases where the states could not be called to answer in the federal courts, these courts ceased to be a constitutional tribunal to investigate and determine their power and authority, under the constitution of the United States. The duty of the courts to declare the law, terminated with their authority to execute it.

The committee conceive, that such is the true, and that such is the settled construction of the constitution; settled by an authority paramount to all others, and from which there can be no appeal—the authority of the people themselves.

So early as the year 1798, the states and the people were called to declare their opinions upon the question involving the relative rights and powers of the government of the United States and of the governments of the separate states. In the month of November, of that year, the state of Kentucky resolved—

"That the several states composing the United States of America, are not united on the principles of unlimited submission to their general government; but, that by compact under the style and title of a constitution for the United States, and amendments thereto, they constituted a general government for special purposes; delegated to that government certain definite powers, reserving, each state to itself, the residuary mass of right to their own self government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each state acceded as a state, and is an integral party, its co-states forming, as to itself, the other party; that the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its

power. But that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress."

In the month of December, of the same year, 1798, the legislature of Virginia resolved—

"That this assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no farther valid than they are authorised by the grants enumerated in that compact; and that in case of deliberate, palpable and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound to interpose, for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them."

It cannot be forgotten, that these resolves, and others connected with them, were occasioned by the acts of congress commonly called the alien and sedition laws, and by certain decisions in the federal circuit courts recognizing the obligatory force of the common law, as applicable to federal jurisprudence.

The resolutions of Virginia were submitted to the legislatures of the different states. Delaware, Rhode Island, Massachusetts, the senate of New-York, Connecticut, New-Hampshire and Vermont, returned answers to them, strongly reprobating their principle, and all but Delaware and Connecticut, asserting that the federal judiciary were exclusively the expositors of the federal constitution. In the Virginia legislature these answers were submitted to a committee, of which Mr. Madison was chairman, and in January 1800, this committee made a report, which has ever since been considered the true text book of republican principles.

In that report, the claim that the federal judiciary is the exclusive expositor of the federal constitution, is taken up and examined. The committee say:

"But it is objected, that the judicial authority is to be regarded as the sole expositor of the constitution, in the last resort; and it may be asked, for what reason the declaration by the general assembly, supposing it to be theoretically true, could be required at the present day, and in so solemn a manner?

"On this objection it might be observed, first, that there may be instances of usurped power, which the forms of the constitution would never draw within the control of the judicial department; secondly, that if the decision of the judiciary be raised above the authority of the sovereign parties to the constitution, the decisions of the other departments, not carried, by the forms of the constitution, before the judiciary, must be equally authoritative and final, with the decisions of that department. But the proper answer to the objection is, that the resolution of the general assembly relates to those great and extraordinary cases in which all the forms of the constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes, that dangerous powers, not delegated, may not only be usurped and executed by the other departments, but that the *judicial departments also may exercise or sanction dangerous powers beyond the grant of the constitution; and* CONSEQUENTLY THAT THE ULTIMATE RIGHT OF THE PARTIES TO THE CONSTITUTION, TO JUDGE WHETHER THE COMPACT HAS BEEN DANGEROUSLY VIOLATED, MUST EXTEND TO VIOLATIONS BY ONE DELEGATED AUTHORITY AS WELL AS BY ANOTHER, BY THE JUDICIARY, AS WELL AS BY THE EXECUTIVE OR LEGISLATIVE.

"However true, therefore, it may be, that the judicial department is, in all questions submitted to it by the forms of the constitution, to decide in the last resort; this resort must necessarily be deemed the last in relation to the authorities of the other departments of the government: not in relation to the rights of the parties to the constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of judicial power, would annul the authority delegating it; and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very constitution which all were instituted to preserve."

The resolutions of Kentucky and Virginia, and of Massachusetts, Rhode-Island, the senate of New-York, New-Hampshire and Vermont, in reply, and the answer to these replies by the legislature of Virginia, were a direct and constitutional appeal to the states and to the people, upon the great question at issue. The appeal was decided by the presidential and other elections of 1800. The states and the people recognized and affirmed the doctrines of Kentucky and Virginia, by effecting a total change in the ad-

ministration of the federal government. In the pardon of Callender, convicted under the sedition law, and in the remittance of his fine, the new administration unequivocally recognized the decision and the authority of the states and of the people. Thus has the question, whether the federal courts are the sole expositors of the constitution of the U. States in the last resort, or whether the states, "as in all other cases of compact among parties having no common judge," have an equal right to interpret that constitution for themselves, where their sovereign rights are involved, been decided against the pretension of the federal judges by the people themselves, the true source of all legitimate power.

In the opinion of the committee, the high authority of this precedent, as well as the clear right of the case, impose a duty upon the state, from which it cannot shrink without dishonor. So long as one single constitutional effort can be made to save them, the state ought not to surrender its rights to the encroaching pretensions of the circuit court.

But justice should ever be held sacred. Pride and resentment are alike, poor apologies for perseverance in error. If it were admitted that the proceedings of the federal court against the state, through its officers, are not warranted by the constitution, still, if the state has commenced in error, it should abandon the controversy. Before, therefore, we determine upon the course we ought to pursue, it is necessary to review and examine the ground upon which we stand.

The bank of the United States established an office of discount and deposite at Cincinnati, in this state, which commenced banking in the spring of the year 1817. The legislature met in December following, and upon the 15th day of December, a resolution was proposed in the House of Representatives, and adopted, appointing a committee to enquire into the expediency of taxing such branches, as were, or might be established within this state. The committee reported against the expediency of levying such a tax; but the house of representatives reversed their report by a majority of 37 to 22. A substitute for their report was then offered, asserting the right of the state to levy such a tax, and the expediency of doing it at that time. The constitutional right of the state to levy such a tax, was carried by 48 to 12, and the expediency of proceeding to levy the tax, by 33 to 27. A bill, assessing a tax, was reported to the house, and passed to be engrossed for a third reading and final passage, and upon the third reading, was postponed to the second Monday of December, 1818.

After this solemn assertion of the right to tax, and when a bill for that purpose was pending before the house of representatives, the bank proceeded to organize a second office of discont and deposite, at Chillicothe in this state, which commenced banking in the spring of the year 1818. In January 1819, the legislature enacted the law levying the tax, and postponed its execution until the September following, that the bank might have abundant time, so to arrange their business, as not to come within the provisions of the taxing law.

At the period of adopting these measures, the constitutional right of the state, to levy the tax, was doubted by none, but those interested in the bank, or those who expected to derive pecuniary advantages, for themselves or their friends, by the location of branches. It seemed impossible that a rational, disinterested and independent mind could doubt. During the existence of the old bank of the United States, the state of Georgia had asserted this right of taxation, and actually collected the tax. The bank brought a suit, to recover back the money, in the federal circuit court of Georgia. This suit was brought before the supreme court, upon a question not directly involving the power of taxation. The supreme court decided the point before them, in favor of the bank, but upon such grounds, that the suit was abandoned and the tax submitted to. When the charter of the present bank was enacted, it was known that the states claimed, and had practically asserted the power of taxing it, yet no exemption from the operation of the power is stipulated by Congress. The natural inference from the silence of the charter upon this point, would seem to be, that the power of the states was recognized, and that Congress were not disposed to interfere with it.

The constitution of the United States had distinctly expressed, in what cases the taxing power of the states, should be restrained. No maxim of legal construction is better settled, and more universally acknowledged, than, that express limitations of power, either in constitutions or in statutes, are distinct admissions that the power exists, and may be exercised in every other case, than those expressly limited. With a knowledge of these facts and doctrines in their minds, that a confidence in the power of the state, to levy this tax, should be almost universal, is what every intelligent man would expect.

But after the law was enacted, that levied the tax, and before the time of its taking effect, the Supreme Court of

the United States, in the case of Maryland and M'Culloch, decided, that the states were debarred by the constitution of the United States, from assessing or levying any such tax. And upon the promulgation of this decision it is maintained, that it became the duty of the state and its officers to acquiesce, and treat the act of the legislature as a dead letter. The committee have considered this position, and are not satisfied that it is a correct one.

It has been already shewn, that since the 11th amendment to the constitution, the separate states, as parties to the compact of union, are not subject to the jurisdiction of the federal courts, upon questions involving their power and authority as sovereign states. Not being subject to their jurisdiction, no state can be concluded by the opinions of these tribunals; but these are questions, in respect to which there is no common judge, and therefore, the state has a right to judge for itself. If by the management of a party, and through the inadvertence or connivance of a state, a case be made, presenting to the supreme court of the United States for decision, important and interesting questions of state power, and state authority, upon no just principle, ought the states to be concluded, by any decision had upon such a case. The committee are clearly of opinion, that such is the true character of the case, passed upon the world by the title of M'Culloch vs. Maryland.

It was once remarked, by a most profound politician, that *words are things*; and the observation is most unquestionably a correct one. This case, dignified with the important and high sounding title of "*M'Culloch vs. the state of Maryland*," when looked into, is found to be an ordinary *qui tam* action of debt, brought by a common informer, of the name of John James; and it is throughout an agreed case, made expressly for the purpose of obtaining the opinion of the supreme court of the United States, upon the question, whether the states could constitutionally levy a tax upon the bank of the United States. This agreed case was manufactured in the summer of the year 1818, and passed through the county court of Baltimore county, and the court of appeals of the state of Maryland, in the same season so as to be got upon the docket of the supreme court of the United States, for adjudication, at their February term, 1819. It is only by the management and concurrence of parties, that causes can be thus expeditiously brought to a final hearing in the supreme court.

It must be remembered, that through the extravagant and fraudulent speculations, of those entrusted with conducting the concerns of the bank, it stood at the close of the year 1818, upon the very brink of destruction. At this critical juncture of its affairs, it was a manœuvre of consumate policy to draw from the supreme court of the United States, a decision, that the institution itself, was constitutionally created; and that it was exempt from the taxing power of the states. This decision served to prop its sinking credit; and if it inflicted a dangerous wound upon the authority of the states both with the bank and with John James this might be but a minor consideration. It is truly an alarming circumstance, if it be in the power of an aspiring corporation, and an unknown and obscure individual, thus to elicit opinions, compromitting the vital interests of the states that compose the American Union.

It is not, however, either in theory or in practice the necessary consequence of a decision of the supreme court, that all who claim rights of the same nature with those decided by the court, are required to acquiesce. There are cases in which the decisions of that tribunal have been followed by no effective consequence.

In the case of Marbury *vs.* Madison, the supreme court of the United States decided, that William Marbury was entitled to his commission as a justice of the peace for the district of Columbia, that the withholding of this commission by President Jefferson, was violative of the legal vested right of Mr. Marbury. Notwithstanding this decision, Mr. Marbury never did obtain his commission; the person appointed in his place continued to act; his acts were admitted to be valid, and President Jefferson retained his standing in the estimation of the American people. The decision of the supreme court proved to be totally impotent and unavailing.

So, in the case of Fletcher *vs.* Peck, the supreme court decided, that the Yazoo purchasers from the state of Georgia, were entitled to the lands. But the decision availed them nothing, unless as a make-weight in effecting a compromise.

These two cases are evidence that in great questions of political rights, and political powers, a decision of the supreme court of the United States, is not conclusive of the rights decided by it. If the United States stand justified, in withholding a commission, when the court adjudged it to be the party's right; if the United States might, without

reprehension, retain possession of the Yazoo lands, after the supreme court decided that they were the property of the purchasers from Georgia, surely the state of Ohio ought not to be condemned because she did not abandon her solemn legislative acts, as a dead letter, upon the promulgation of an opinion of that tribunal.

This opinion is now before us, and the committee conceive that it is the duty of this General Assembly, calmly to examine the principles and reasoning upon which it is founded. Much deference is due to the respectable individuals by whom it was formed; and more to the high station they occupy in the government. Although their opinion is not admitted to have the force of absolute authority, yet a course of proceeding pronounced by such eminent statesmen and lawyers to be unconstitutional, ought not to be lightly and unadvisedly adopted.

It is not perceived, that the power of the state to tax the offices of the Bank of the United States established within their jurisdiction, is necessarily connected with the question whether Congress have, or have not, the constitutional power to create a corporation. This power may safely be admitted, if, at the time of making this admission, we clearly comprehend the principles upon which the corporation is to be instituted.

"A corporation," says chief justice Marshall, in the case of Dartmouth College, "is an artificial being; invisible, intangible, and existing only in contemplation of law. Being the mere creature of the law, it possesses only those properties, which the charter of its creation confers upon it, either expressly, or as incidental to its very existence.—These are such as are supposed best calculated to effect the objects for which it was created. Among the most important, are immortality, and, if the expression may be allowed, individuality; properties by which a perpetual succession of many persons are considered as the same, and may act as a single individual. They enable a corporation to manage its own affairs, and to hold property without the perplexing intricacies, the hazardous and endless necessity of perpetual conveyances for the purpose of transmitting it from hand to hand. It is chiefly for the purpose of clothing bodies of men, in succession, with these qualities and capacities, that corporations are invented, and are in use. By these means a perpetual succession of individuals are capable of acting for the promotion of the particular object, like one immortal being. But this being does not share in the

civil government of the country, unless that be the purpose for which it was created. Its immortality no more confers on it, political power, or a political character, than immortality would confer such power, or character, upon a natural person. It is no more a state instrument than a natural person exercising the same powers would be."

To this definition of a corporation, the committee see no reason to object; and when the true character of a private banking company is correctly understood, there seems to be no cogent reason why it may not be incorporated by Congress upon the principles here defined.

Banking, where the capital is owned by an association of individuals, is a private trade, carried on by the individuals constituting the company, for their own profit. A mercantile company trade in produce and merchandize: a banking company trade in money, promissory notes and bills of exchange. Both may carry on their trade without a charter of incorporation; the trade of both may be regulated by the law of the state, in which they are located; and a charter of incorporation may be conferred upon either, without changing the character of their business, or clothing them with any portion of political power.

It is competent for the government of the United States to make contracts with an association of individuals, as well as with a single person. The secretary of the treasury may be authorised to employ an unincorporated banking company, to take charge of, and transmit from place to place, the public revenue. For the performance of this service, he may stipulate a compensation; but he cannot be authorised to barter a privilege inconsistent with the laws of the state, where the company is located, by way of compensation for services to be performed. If such banking association be prohibited by the laws of the state, a contract with the general government cannot suspend the operation of those laws. If such banking association be subject to state taxation, they cannot be exempted from their responsibility by a contract with the United States. But a capacity to transact its associate concerns in a legal and artificial name; a capacity to exist by perpetual succession, notwithstanding the natural death of the individuals; a capacity to sue, and a liability to be sued, without abatement, by the death of any one of the parties; an exemption from personal responsibility for the company debts, and conferring a separate character upon the company funds, so as to preserve them distinct from the individual property of the members of the

company, are not privileges incompatible with state laws. And if investing a private company with these privileges, may conduce to the public convenience and the public safety, in making contracts to receive and transmit the public moneys: conceding that Congress are empowered, under the constitution, to confer these privileges, as a consideration for the performance of the services agreed upon, and for the purposes of public good, cannot possibly compromit the safety of the states. If their charter of incorporation confer upon the Bank of the United States no other privileges, than are here enumerated, it is manifest, that in every other respect, their property and business stand upon the same footing with that of other individuals.

It was in this light that a charter incorporating a bank was contemplated by the first founders of the Bank of the United States. The power of establishing themselves where they pleased, without respect to the state authority, was not claimed by the old bank, nor did they arrogate to themselves any federal character, or any privilege which did not appertain to them as individual citizens. No new or extended privileges are conferred, by its charter, upon the present institution. It is created a private corporation of trade, "as much so as if the franchises were invested in a single person." But it has received its chartered privileges from the government of the United States, and therefore it is, that it is exempt from state taxation.

If the committee have been able to understand the opinion of the supreme court, this consequence is deduced from the five following propositions:

*First*—The government of the Union, though limited in its powers, is supreme within its sphere of action.

*Second*—It is of the very essence of supremacy, to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its own operations from their influence.

*Third*—A power to create, implies a power to preserve.

*Fourth*—A power to destroy, if wielded by a different hand, is hostile to, and incompatible with these powers to create and to preserve.

*Fifth*—Where this repugnancy exists, that authority which is supreme, must control, not yield to that over which it is supreme.

These propositions are plausible and imposing; but when carefully examined, and applied to the subject under con-

sideration, it is conceived that no one of them can be sustained, to the extent here laid down.

At the threshold of the enquiry, we demand what is meant by the assertion, that "the government of the Union is supreme within its sphere of action?" If this observation is applied to a subject, where no question of conflicting power arises, its truth may be safely admitted; and the proposition is equally applicable to the states. In the same sense, each state is equally "supreme within its sphere of action." In regulating our foreign trade, the government of the Union is supreme, and in establishing the modes of conveyance and the canons of descent, each state is equally supreme. But this proves nothing upon either side when the relative powers and authorities of the general and state governments are drawn into discussion.

The power to establish light houses, beacons, buoys and public piers, is within the sphere of action of the government of the Union; but, in practice, this power has never been considered supreme. It has always been exercised with the assent of the states, and within cessions of territory made by them.

The Cumberland road was laid out and constructed by the government of the Union; consequently, the power to do it, is considered within their sphere of action. Yet this power was not claimed as supreme. It was only exercised with the assent and approbation of the states through which the road was made.

Murder is an offence against all government; yet the government of the United States cannot punish murder, unless it be committed in the army or navy, upon the high seas, or within their forts and arsenals, or other places where they exercise exclusive jurisdiction. Except in the cases specified, the murder of an officer of the United States cannot be distinguished from an ordinary homicide. A judge of the federal courts a marshal, a collector of the revenue, a postmaster, a member of either house of congress, the president or vice president, may be murdered, and if the respective states refuse to interpose their authority to punish the perpetrator, he must escape with impunity. This government, though supreme within its sphere of action, cannot protect the lives of its public functionaries, by the punishment of those who may assail them. It can assert no jurisdiction, unless violence be offered to them in their official characters, and in the performance of official duties.

It may be answered to this, that the punishment of murder is not within their sphere of action. True. But how futile is it to talk of a government being supreme, which is not invested with this, the most common and ordinary mode of preserving its existence. It is supreme over individuals, in cases entirely subject to federal cognizance; but is it supreme over the states? It cannot coerce them either to elect senators in congress, or electors of president and vice-president. A combination between one half of the states, comprizing one third of the people only, possess the power of disorganizing the federal government, in all its majesty of supremacy, without a single act of violence. It is expressly inhibited by the constitution, from which this supremacy is derived, from calling the states as defendants before its courts. It cannot save from punishment one single citizen whom the state authorities have condemned. It is neither supreme to save nor to punish; in what, then, does this supremacy consist, in which the separate states are not also supreme? In one thing only; and that is, the exercise, by the federal courts, of appellative jurisdiction, in cases and between parties made subject to their jurisdiction by the constitution. But the states, as parties, are *no* subject to their jurisdiction; but are expressly exempt from it, and therefore, over the states and upon questions involving the extent of their powers and authority, the government of the Union is not supreme. It cannot, according to the hypothesis of the second proposition, remove all obstacles to its action, and so modify the powers of the state governments as to exempt its own operations from their influence.

Is this second proposition sustainable upon any acknowledged principle of constitutional law? It is certainly a doctrine of portentous import, when connected, as it necessarily must be, with the proposition that precedes it. It claims, as an attribute of the government of the Union, a power to *modify* every power vested in the state governments, so as to remove all obstacles to its own action, and exempt its own operations from their influence.

According to this doctrine, the states are not co-parties to the compact of union, as asserted in 1798 by the states of Kentucky and Virginia, and established in 1800 by the American people. The rights, powers and authorities of the states, are not immutably established by constitutional provisions; but are subject to modification, in order to give scope for the action of the government of the Union.

The two propositions stand in a perfectly natural and logical connection, though not thus arranged in the opinion:

"The government of the Union, though limited in its powers, is supreme within its sphere of action."

"It is of the very essence of supremacy, to *remove* all obstacles to its action within its own shere, and so to *modify* every power vested in *subordinate* governments, as to exempt its own operations from their influence."

Therefore we may very properly add the consequent, it is competent for the government of the Union to remove all obstacles to its action, by so modifying the powers of the state governments as to exempt its own operations from their influence. If the postulates be admitted, this consequent is inevitable.

This result will hardly be contended for in explicit terms—it asserts a supremacy no where recognized in the constitution. The powers retained by the states, cannot be *modified* by the government of the Union. To modify, is to change or give a new shape to the power modified; and if the government of the Union can give a new character to the powers reserved by the states, for the purpose of removing obstacles to their own power of action, there must soon be an end to the state governments. The government of the Union asserts an exclusive authority in itself to determine its own sphere of action. On this point it is as supreme as upon any other. So soon as it has resolved that the exercise of any power appertains to it, that power assumes the character of supremacy, and removes by modification, puts down before its march, every power previously supposed to be vested in the states that may present any obstacle to its action. Thus the government of the Union may, and undoubtedly will progressively draw all the powers of government into the vortex of its own authority. Against these doctrines, the committee conceive that it is the duty of the states to enter their most solemn protest.

The committee do not admit, that supremacy is an attribute, either of the government of the Union or of the state governments. Supremacy is an attribute of the people, and an attribute of the laws. In relation to the governments, the people are supreme, and the laws supreme over individuals. Government is but the medium through which the supreme power acts; the government of the Union is the medium through which the American people act upon particular subjects, that concern their interest and their welfare; the governments of the states are the medium through

which the same people act upon other subjects equally interesting and important to them. These two mediums of action are only brought into collision by the usurpations of one or the other. Neither is invested with power to render its encroachments permanent, by a modification of the powers of the other. While moving within its proper limits neither can present an obstacle to the action of the other; both must proceed harmoniously. In respect to each other, neither is supreme, neither subordinate. The government of the Union, and the governments of the separate states, are alike the property and the agencies of the whole American people. This principle is the base and bond of the American Union.

The third proposition is, "that a power to create, implies a power to preserve."

As applicable to the government of the Union and the incorporation of the Bank of the United States, this proposition, in the broad sense of its expression, is considered totally inadmissible.

The committee have already attempted to demonstrate, that the Bank of the United States is a mere private corporation of trade. Their charter confers upon them neither political character nor political power; it gives them corporate capacity, and nothing more. The provision that the bank may establish branches in the states and territories, when fairly construed, can only be regarded as giving corporate capacity to do so; and this is the only provision of the charter, that by any colorable interpretation can be understood to vest them with a semblance of political power.

The legal faculty and capacity conferred by the charter, if constitutionally created, are preserved in existence by the very law that originates them. They become private vested rights, and are preserved by the same universal law that protects individual rights and individual contracts.

But the trade and business of the bank, and the franchises conferred to aid in carrying them on, are separate and distinct matters. To lend money and drive a trade in bills of exchange and gold and silver bullion, are not corporate franchises. These trades exist independent of the charter, and may be pursued by individuals without an act of incorporation. It is not the business itself, but the particular method of conducting it, that is created by the act of congress incorporating the Bank of the United States.

Natural persons are clothed with an original, inherent capacity to make contracts and to acquire property. In a corporation, this capacity is artificial. In other respects, natural persons and corporations or legal persons, stand upon the same principles. The power of making contracts, enjoyed by individuals, is subject to the regulations of law; the property acquired by individuals, is liable to taxation for the support of those laws that originate and protect it; private corporations of trade, upon every maxim of justice and common sense, are subjected to the same regulations and exactions.

The employments, professions, business and trade of natural persons, may be taxed as such; and laws for this purpose are not considered as violative of individual rights, or as incompatible with the existence and preservation of trade, business and employments. No just principle is perceived, upon which these laws should receive a different interpretation in their application to the trade and business of a private corporation.

According to the definition of a corporation heretofore given, the corporate franchises of the Bank of the United States invest the stockholders with immortality and individuality, with a capacity to act like one immortal being, to perpetuate their existence; to manage their own affairs, to hold property and transmit it from hand to hand as a natural person could. These franchises are conferred by the government of the Union, to enable the company to conduct the business of lending money, and to trade in bills of exchange and gold and silver bullion, with convenience and security; but the business and trade to be conducted, are not corporate franchises, and are not created by the act of congress. A tax assessed upon the business of the company, does not touch their corporate franchises, however it may affect their convenience or their profit. This power to preserve, as asserted by the court and applied to the subject before them, is not asserted for maintaining and preserving the corporate franchises of the bank, but for the purpose of giving to these corporate franchises action and employment everywhere, independent of state laws and beyond the control of state legislation. When fairly traced to its consequences, the doctrine asserted amounts to this: That a corporation created by the government of the Union is clothed with supreme authority to conduct its business, without respect to the existing laws of the states, and free from any apprehension of those that may be enacted.

A most serious objection to this doctrine, is, that it asserts the power to preserve, not as pertaining to the government of the Union, to be employed or not at the discretion of congress, but as incidental to the charter, and to be secured to the company by the judicial power alone.

The committee conceive, that the power to create a corporation, and the power to preserve it by special privileges and exemptions, are powers of the same class and description; both are legislative powers, to be conferred or withheld at the discretion of the legislature; and where a charter of incorporation stipulates no special privileges and exemptions, none can be supposed to exist. "Being the mere creature of law, it possesses only those properties conferred upon it, either expressly or as incidental to its very existence."

Had congress intended to exempt the bank from the taxing power of the states, as a means of preserving its existence, a provision for that purpose should have been introduced into the charter. The power to make this provision would have been examined before the charter was created, and the intention of congress would have been manifested. The people and the states would have been apprized of the pretensions of the bank before it got foothold among them, and before it had established a monied influence to support itself. Every privilege claimed by the company, when inserted in the charter, has received the sanction of the legislative authority, and is open to the examination of all; but to invest them with unknown and latent privileges, to any extent that the supreme court may deem convenient, to preserve, not only their corporate franchises, but the most beneficial use of them, is undoubtedly a new doctrine, as applied to corporations, and as dangerous as it is novel.

This company have claimed that the states cannot tax their corporate operations, or the profits arising from them; and the supreme court have sustained their claim as a privilege necessary to preserve their existence. By their charter, they are authorised to employ officers, clerks and *servants*. Should the company claim to send slaves into Ohio, and employ them in their branches as *servants*, the committee would conceive the claim as well founded and as likely to be sustained as the exemption from taxation. It stands upon the same principle. If the states may control the company in the employment of *servants*, they may embarrass its operations and impede a free and unrestrained exercise and enjoyment of their corporate faculties. By the laws of Ohio,

a promise to pay the debt of another is not obligatory, unless made in writing; but the charter of this company is silent as to the mode of binding parties that contract with them; they may claim that this law of contracts applies to individuals only, and cannot touch them without narrowing the beneficial use of the faculty conferred upon them by congress; who shall say that this claim may not be sustained? In short, who can undertake, with any hope of success, to enumerate the privileges and exemptions to which, upon this doctrine, the bank are entitled?

It is important to glance at the train of implications with which this doctrine is connected. The power to create the bank, implies the power to preserve it. This power to create, is, itself, derived by implication. It is found among the subsidiary powers, as incident to the choice of means for the administration of the government. This implied power to create, is made the foundation for further implication; it implies the power to preserve; and again, of necessity, the power to preserve, implies a choice in selecting the means of preservation; and upon the doctrine of the court, all these powers are supreme, to the operations of which the constitutions and laws of the states can oppose no obstacle. It is certainly difficult to see the point where these implications terminate, or to name the power which they leave to the states unimpaired.

The government of the Union have no authority, by the express provisions of the constitution, to interfere with the law of contracts. They have found authority to institute a bank, or in other words, to create a private corporation of trade; and with the power to create, they have possessed themselves of power to preserve, not the corporation they have created, but the business in which the corporation have engaged. This business extends over the whole region of contract, either direct in negotiating loans of money, and purchasing and selling bills of exchange and gold and silver bullion, or indirect in receiving and disposing of merchandize and real estate pledged or mortgaged for debts previously contracted. From the aid of this corporation, the states may withdraw their law of conveyances, or, as applied to their dealings, the states may introduce provisions regulating contracts, which the corporation may deem obstructions to the enjoyment of their corporate trade. From this doctrine, that the power to create implies the power to preserve, congress may derive a power to frame a new law of contracts, and devise a new system of conveyances, suita-

ble to the beneficial enjoyment of the trade of this corporation; and this new system, in the supremacy of its action, may disregard both fundamental laws, and establish maxims of jurisprudence.

The government of the union was not instituted to protect individual rights, or to redress individual wrongs; but this power to preserve the trade, business and property of a corporation created by themselves, invests them with power to frame a code of criminal law, for the punishment of those who violate the property of the bank, and thus draw into the federal courts, the ordinary administration of criminal justice. This is already attempted in the provision for punishing those who counterfeit the notes of the bank, and upon the doctrine asserted, may be extended to cases of larceny, burglary, or robbery upon their corporate property. No doctrine has ever "yet been advanced that draws to the government of the Union such an host of powers; none that contains such potency for rending into shreds" the authority of the states.

Those who claim for the government of the Union, the power of creating corporations, hold that "one may be created in relation to the collection of the taxes, or to the trade with foreign countries, *or between the states*, or with the Indian tribes; because it is the province of the general government to regulate those objects, and because it is incident to a *general* sovereign or legislative power to regulate a thing to employ all the means which relate to its regulation to the best advantage." The power to create all these corporations upon the principle asserted, implies the power to preserve them. And the power to preserve, implies a power in the government of the Union, to bargain with companies for monopolies of trade and exemptions from taxation: to place such companies above the power of the states, as means employed by themselves, which they have a right to use to the best advantage.

In the discussion of this subject, an extraordinary, and the most miraculous efficacy is given to the terms "*employment of means.*" And it is worthy of remark, that no effort is made to explain their true import, or the sense in which they are used. We are told that the collection of taxes, and the safe-keeping of, and transmission of money from place to place, is an end, or object of government, and that the bank is a convenient means of attaining this end; but it is not the charter or corporate franchise that is used or employed for this purpose; it is the individuals that com-

pose the company, as an aggregate body, that are thus used, and the corporate franchise bestowed upon them by the government is conferred to enable them to transact their own business, and perform this service for the government, with greater security and convenience. At this moment the government of the union employs the Franklin Bank of Columbus, to receive and pay out the public moneys, and while thus employed, this bank is used as a means of government, but being thus used, is not supposed to invest it with any privilege peculiar to the public functionaries.

The government, all its machinery and officers, are but the means of the people for attaining the great ends declared in the preamble to the constitution. Every person employed under the constitution, from the President of the United States to the post boy that carries the mail, partakes of this character of means: The law that the President is bound to see faithfully executed, and the horse that the post-boy rides, are alike, in a certain sense, means of the government; but in respect to privileges and exemptions, no man ever supposed them to stand upon the same footing.—Those who hold offices direct under the government, may be regarded as principal means; those who are employed by contract, as incidental or subsidiary. The first class compose, as it were, a part of the government direct; are entrusted with the exercise of some portion of political power, and are clothed with privileges and exemptions attached to their official stations. Those engaged by contract to perform services, have no official character, and consequently cannot claim the exemptions attached to public office.—Thus a deputy postmaster is an officer under the government, invested with privileges, and subject to disabilities attached to his office; but a contractor to carry the mail, has no such character; yet both are means used by government under the constitutional authority, "to establish post offices and post roads."

The bank of the United States is not *a mean* of the government of the union, in the same sense with the mint and the post office; but in the same sense with contractors to supply public stores, or to carry the mail. The director, assayer, chief coiner, engraver, treasurer, melter and refiner of the mint, are public officers; so are the postmaster general, and deputy postmasters. They cannot hold their offices and seats in Congress at the same time; they are appointed to, and take an oath of office. But the workmen employed in the mint, like contractors to carry the mail,

and the drivers and riders they employ, are not public officers, nevertheless, they are necessary means in the employment of government. The stockholders in the bank of the United States, the president and directors of that institution, are not public offices; even the directors appointed by the government, are destitute of public character. They are eligible to seats in congress, which is conclusive evidence upon this point; and it is a monstrous doctrine to maintain, that corporations created by the government of the union, in point of privilege and exemption, are principal means of government, not to be distinguished from the officers of the mint, and the post office, while every member and officer of such corporations are eligible to seats, both in the congress of the union, and the legislatures of the several states. By this doctrine, the great principle of separating the departments of government is completely broken down. Collectors of revenue, officers of the customs, Indian agents, receivers of public moneys under the government of the union, may become legislators and judges in their own case, both in the general and state governments. This consequence alone, would seem sufficient to expose the unsoundness of the doctrine asserted.

It is singular, that in the very elaborate opinion which the committee have been engaged in examining, no definition should be given of the true character of the bank; but that, like the terms "employment of means," it should be left to doubtful and various interpretations. It is a public institution, or a private corporation of trade. If the former, with the privileges of office, the corporators must be subject to the disabilities of office. If the latter, like any other individual, or bank, employed by the government of the union, its trade and business must be regulated by state laws and subject to state exactions. In support of their position, that it is a private corporation of trade, the committee can adduce a judicial opinion delivered in the supreme court itself. "For instance, says Mr. Justice Story, a bank created by the government for its own uses, whose stock is exclusively owned by the government, is, in the strictest sense, a public corporation. So is an hospital, created and endowed by the government for general charity. *But a bank whose stock is owned by private persons, is a private corporation, although it is erected by the government and its objects and operations partake of a public nature.* The same doctrine may be affirmed of insurance, canal, bridge, and turnpike companies. In all these cases, the uses may, in a certain

sense, be called public, *but the corporations are private; as much so indeed as if the franchise were vested in a single person.*"

We have seen that by the employment of natural persons or state banks, to perform those services stipulated to be performed by the bank of the United States, they become to a certain extent, *means employed* by the government, and yet have never been regarded as public officers, privileged from the operation of state laws. May we not, therefore, paraphrase the language of the chief justice, and ask, "if then a natural person or state bank, employed by the government of the union, to receive, keep, and pay out public moneys, would not become a public officer, or be considered as a member of the civil government, how is it that this artificial being, created by law, for the purpose of being employed by the same government, for the same purposes, should become a part of the civil government of the country? Is it because its existence, its capacities, its powers, are given by law? Because the government has given it the power to take and to hold property, in a particular form, and for particular purposes, has the government a consequent right, as over all members of the civil government it must have, substantially to change that form, or to vary the purposes to which the property is to be applied? *This principle has never been asserted or recognized, and is supported by no authority.*"

Thus reasoned the judges of the supreme court, upon the 2d February, 1819. The case of M'Colloch vs. Maryland had not then been argued or decided. And the doctrine that the government, by chartering a private corporation of trade, placed the association upon the same foundation with the mint and the post office, had then never been recognised in a court of law, and was "*Supported by no authority.*" If the public character of the bank of the United States, stands upon other foundation than that expressly negatived in these quotations, the committee have been unable to discover it; it is not explained or developed in the opinion that places them on a level with the mint and the post office, and gives to their trade, in bills of exchange, and gold and silver bullion, the same character as to the process of the federal courts.

When the committee deny that, "a power to create, implies a power to preserve," they are to be understood as denying the application of this principle, only to the case of creating corporations. A power to create a public office,

necessarily implies a power to preserve that office; but a power to bestow a corporate franchise to carry on a private trade is totally different from creating a public office; a distinction between the corporate franchise, and the business to be conducted under it, must be always borne in mind; the power that creates a corporate franchise, for private purposes, not only cannot preserve such franchise, but cannot new model or impair it; its corporate character and existence, are as secure as the existence and personal rights of a natural person; but its trade and business, like the employments of natural persons, remain subject to regulation, by the local authorities, where it seeks to locate them.—Thus a power in the states to tax, or even to prohibit a trade in bills of exchange, and gold and silver bullion, is not a power to destroy the corporate franchises of the bank of the United States. These corporate franchises remain, notwithstanding the exercise of this power, just as the existence and rights of an individual remain, though his business is taxed, or he is forbid to engage in certain employments. The government of the Union have conferred upon the bank certain capacities, for engaging in trade; but it has not and cannot confer an absolute right and power to drive this trade, in contempt of state laws. It is made capable, but not sovereign; its capacity must be examined, not with a single eye, to the supremacy of the power that created it; but with a whole view, of what that power could confer, and what it has conferred.

If the committee have succeeded in shewing, that the power which created the bank of the United States, is not supreme, in the sense of the two first propositions; but is limited in its powers and means of preserving the bank, so as to render the third proposition untenable, the fourth and fifth propositions, which are founded upon, and consequences derived from the other three, must necessarily be given up: As applied to the question under discussion, however, it has been shewn, that a power to tax their trade, is not a power to *destroy* the corporation. It is not perceived how a power to diminish the profits of labor and capital, by exacting a portion of their proceeds, for the support of government, can be construed into a power to destroy human life, and annihilate capital. The power of taxing the bank is denied, because it might be so used, as to prevent the corporation from driving a profitable trade, and this is deemed a power to destroy the charter, which did not originate the trade, but merely created a facility for conducting it. But what

is most singular is this, that after arriving at this conclusion, an admission is made, that at once demolishes the whole doctrine upon which it is founded.

It is conceded, that each state may tax the stock owned by its citizens in this bank. Then it is not a public institution exempt from state taxation, upon the great principle, that the states cannot tax the offices, institutions and operations of the government of the Union. It is not that the states have no power to tax the bank; but that this power exists only over its capital and does not extend to its operations. What then becomes of all the laboured doctrines of the opinion? The government of the Union, though supreme within its sphere of action, removing all obstacles, and so modifying all powers, vested in subordinate governments as to exempt its own operations from their influence, cannot, after all, preserve what it can create. Those who advance this pretension, are compelled to admit, that, upon their own principles, a power to destroy, may be wielded by the state governments.

In its utmost extent, a state tax upon the operations of the bank can produce no other injury than a suspension of its business. By ceasing to trade, a tax upon business can always be avoided. Not so a tax upon capital. Should the states of Pennsylvania, New York and Massachusetts combine to tax the stock in the Bank of the United States, owned by their citizens, to an amount that must consume the annual profits and encroach upon the capital advanced, the destruction of the bank must be inevitable; for this tax upon capital may be exacted whether it be productive or not. The power of the states to tax the business of the bank, is denied, upon the broad ground, that the power to levy such a tax is tantamount to a power to destroy the bank, and is incompatible with a power in the government of the Union to create it. Yet this power to tax the capital, though incontestibly of greater potency to destroy the institution, is admitted to exist. Between the point decided and the point conceded, there is a palpable contradiction, to which sound argument and just conclusions are never subject.

Another very absurd consequence results from the decision and admission, when connected together as they are in the opinion under consideration. A state tax upon the stock or actual capital invested by its citizens in the bank, cannot reach or affect the stock owned by foreigners, or by the other states; but a tax upon the business, operates alike upon all the stockholders. Should Massachusetts tax the

stock of her citizens, stock in the bank must be worth less in Massachusetts than elsewhere. Should all the states tax the stock owned by their citizens, stock held by foreigners must be most valuable. Should one state tax the stock so as to exhaust the capital, the citizens of that state must sell out to citizens of other states, or to foreigners. Should all the states assess such a tax, the whole stock must be transferred to foreigners, or the bank annihilated. One consequence, therefore, of this admission, may be to throw the institution into the hands of foreigners; when our government will exhibit the strange spectacle, of a company of foreign bankers regarded as a national institution, and as such, protected by the constitution of the Union, from any of the burthens to which citizens are subject.

It may be said, that this admission was unwarily made, and upon further consideration would be retracted, as inconsistent with what had been previously decided. But the committee conceive, that this explanation is quite unsatisfactory. It has been already stated, that the constitution does, in express terms, declare what subjects shall be exempt from the taxing power of the states. It was felt, that indirectly to exempt other subjects, was unwarrantable, upon all established principles of interpreting laws and constitutions. This argument was pressed, and to escape its force the admission was made; so that evidently it is part of the decision, and as such sweeps away the grand pillar upon which the whole decision rested.

If the committee have taken a correct view of the subject, it would seem manifest, that in denying to the states a power to tax private corporations of trade, incorporated by the government of the Union, where no doubt exists of the power to create the corporation, it becomes necessary to maintain many doctrines of very doubtful character and dangerous tendency; while conceding to them this power, involves nothing either doubtful or dangerous. It strips such corporations of all pretensions to be regarded as instruments of government, in the same sense as the mint and the post office; but it preserves untouched their corporate franchises, and concedes them every right and privilege which a natural person is entitled to claim. It presents no obstruction to the legitimate action of the government of the Union; but places it, in the establishment of private corporations of trade, upon the same foundation as in erecting light-houses and constructing roads.

It is in nothing derogatory to this corporation, called the Bank of the United States, nor to the government of the Union that created it, to place its trade upon the same footing with that of a private citizen employed by the government. The contractor, to transport the mail, must use horses and carriages; without them he cannot comply with his contract. They are means or instruments employed by government; but they are subject to state taxation, as other property of the same description. This has been an universal practice, and has never been deemed any obstruction to the action of the government of the Union. The states cannot tax the transportation of the mail, without obstructing the action of the government; but were an associatin incorporated to transport the mail all over the Union, with capacity to trade in live stock and agricultural products, there can be no doubt but that their private trade and property would be subject to state taxation.

The committee have not deemed it necessary to examine any argument founded upon a supposed abuse of power by the states; as between states every argument of this sort is inadmissible, because it may be urged with equal force against the exercise of any power by either, and concludes to the destruction of all authority. There can be no doubt, but that the states will at all times be ready to encourage, rather than repress the introduction and employment of capital within their dominion, where it may probably be of any general advantage. Of this, the state authorities are much more competent judges than capitalists or their agents at a distance can be. It must always be unwise, to force capital into a country against the sense of those who administer the government. That the bank has sustained great losses, by sending branches into this state, is now notorious; that their trade and loans have been highly injurious to all the best interests of the state cannot be disputed. This loss on one hand and injury on the other, would have been avoided, had the bank consulted the authorities of the state, instead of holding counsel with money jobbers and speculators.

The committee have carefully examined the subject, and without pretending to present it in all the views of which it is susceptible, have urged only those which appear to them most prominent. The result of their deliberations is, that the Bank of the United States is, in their opinion, a mere private corporation of trade, and as such its trade and business must be subject to the taxing power of the state.

In considering what course the committee should recommend as proper to adopt at this time, one point of difficulty has presented itself. It is urged by many, that the tax levied and collected, is enormous in amount, and therefore unequal and unjust. It is readily admitted, that this allegation is not entirely unfounded; and all must agree, that it does not comport with the character of a state, to afford any colour to accuse her of injustice. Even in the assertion of a right, it is highly derogatory for a state to act oppressively; and all injustice is oppression. It cannot be doubted, but that the tax was levied as a penalty, and that it was not supposed the bank would venture to incur it. It was an act of temerity in them to do so; and although in this view the tax was justly, and in the opinion of the committee, legally collected, yet under all the circumstances of the case, the committee conceive that the state ought to be satisfied with effecting the objects for which the law was enacted.

At this time the bank can have little object in continuing its branches, except to maintain the point of right, which may not be definitely settled by the controversy. The state having refused to use the money collected, has no interest but that of character, and an assertion of the right. If an accommodation can be effected without prejudice to the right upon either side, it would seem to be desirable to all parties. With this view, as well as with a view to remove all improper impressions, the committee recommend, that a proposition of compromise be made by law, making provision, that upon the bank discontinuing the suits now prosecuted against the public officers, and giving assurance that the branches shall be withdrawn, and only an agency left to settle its business and collect its debts, the amount collected for tax shall be paid without interest.

But the committee conceive that the general assembly ought not to stop here. The reputation of the state has been assailed throughout the United States, and the nature of the controversy and her true course of conduct have alike been very much misunderstood. It behoves the general assembly, even if a compromise be effected, to take measures for vindicating the character of the state, and also for awakening the attention of the separate states to the consequences that may result from the doctrines of the federal courts, upon the questions that have arisen. And besides, as it is possible that the proposition of compromise may not be accepted, it is the duty of the general assembly to take ulterior meas-

ures for asserting and maintaining the rights of the state, by all constitutional means within their power.

In general, partial legislation is objectionable; but this is no ordinary case, and may therefore call for and warrant extraordinary measures. Since the exemptions claimed by the bank are sustained, upon the proposition that the power that created it must have the power to preserve it, there would seem to be a strict propriety in putting the creating power to the exercise of this preserving power, and thus ascertaining distinctly, whether the executive and legislative departments of the government of the Union, will recognize, sustain and enforce the doctrine of the judicial department.

For this purpose, the committee recommend, that provision be made by law, forbidding the keepers of our jails from receiving into their custody, any person committed at the suit of the Bank of the United States, or for any injury done to them; prohibiting our judicial officers from taking acknowledgments of conveyances, where the bank is a party, or when made for their use, and our recorders from receiving or recording such conveyances; forbidding our courts, justices of the peace, judges and grand juries, from taking any cognizance of any wrong alleged to have been committed upon any species of property owned by the bank, or upon any of its corporate rights and privileges, and prohibiting our notaries public from protesting any notes or bills held by the bank or their agents or made payable to them.

The adoption of these measures will leave the bank exclusively to the protection of the federal government, and its constitutional power to preserve it, in the sense maintained by the supreme court, may thus be fairly, peaceably and constitutionally tested. Congress must be called to provide a criminal code to punish wrongs committed upon it, and to devise a system of conveyances to enable it to receive and transmit estates; and being thus called to act, the national legislature must be drawn to the serious consideration of a subject which the committee believe demands much more attention than it has excited. The measures proposed, are peaceable and constitutional; conceived in no spirit of hostility to the government of the Union, but intended to bring fairly before the nation, great and important questions, which must one day be discussed, and which may now be evry safely investigated.

The committee conclude, by recommending the adoption of the following resolutions:

*Resolved by the General Assembly of the state of Ohio*, That in respect to the powers of the governments of the several states, that compose the American Union, and the powers of the federal government, this general assembly do recognize and approve the doctrines asserted by the legislatures of Kentucky and Virginia in their resolutions of November and December, 1798, and January 1800, and do consider that their principles have been recognized and adopted by a majority of the American people.

*Resolved further*, That this General Assembly do protest against the doctrines of the federal circuit court, sitting in this state, avowed and maintained in their proceedings against the officers of state upon account of their official acts, as being in direct violation of the 11th amendment to the constitution of the United States.

*Resolved further*, That this General Assembly do assert, and will maintain, by all legal and constitutional means, the right of the states to tax the business and property, of any private corporation of trade, incorporated by the congress of the United States, and located to transact its corporate business within any state.

*Resolved further*, That the bank of the United States is a private corporation of trade, the capital and business of which may be legally taxed in any state where they may be found.

*Resolved further*, That this General Assembly do protest against the doctrine, that the political rights of the separate states, that compose the American Union, and their powers as sovereign states, may be settled and determined in the supreme court of the United States, so as to conclude and bind them, in cases contrived between individuals, and where they are no one of them, parties direct.

*Resolved further*, That the governor transmit the governors of the several states, a copy of the foregoing report and resolutions, to be laid before their respective legislatures, with a request from this General Assembly, that the legislature of each state may express their opinion upon the matters therein contained.

*Resolved further*, That the governor transmit a copy of the foregoing report and resolutions to the President of the United States, and to the President of the Senate, and Speaker of the House of Representatives of the United States, to be laid before their respective Houses, that the principles upon which this state has, and does proceed, may be fairly and distinctly understood.

HOUSE OF REPRESENTATIVES, DEC. 28, 1820.
The foregoing report approved, and resolutions adopted.
Attest, WM. DOHERTY, *Cl'k. H. R.*

IN SENATE, JANUARY 3, 1821.
Report approved and resolutions adopted.
Attest, RICH'D. COLLINS, *C. S.*

And referred to a select committee of messrs. Brents, M'Millan, A. Butler, Allen, R. C. Anderson, Shannon, Bruce, C. H. Taylor and Moore.

Inclosure No. 5, being a communication of the governor of the state of New Hampshire, enclosing a resolution of the general court of that state, concurring in the amendment to the constitution of the United States, proposed to the consideration of the several states, by the state of Pennsylvania, which is in the following words: "Congress shall make no law to erect or incorporate any Bank or monied institution, except within the district of Columbia; and every Bank or monied institution, which shall be established by the authority of Congress, shall, together with its branches and offices of discount and deposite, be confined to the district of Columbia." was laid on the table.

Inclosure No. 6, being a communication from the governor of the state of Illinois, inclosing resolutions of the general assembly of that state, in relation to sundry amendments proposed to the constitution of the United States, was laid on the table.

Inclosures Nos. 7, 10 & 11, being communications from the governor's of New-Hampshire and Maryland, inclosing the proceedings of the legislatures of those states, in relation to the right of the original states in the Union, to a portion of the proceeds of the sales of the public lands of the United States, for the purposes of education, were referred to the committee to whom was referred, so much of the governor's message as relates to education and the Transylvania University, and Mr. Murray was added to said committee.

Inclosure No. 8, being a communication from the governor of the state of Louisiana, inclosing the proceedings of the legislature of that state, in relation to the establishment of certain Hospitals within the same, was laid on the table.

And inclosure No. 9, being a communication from the governor of Virginia, relative to the opening a road from

Mountsterling by the way of Prestonsburg, into the interior of Virginia, was laid on the table.

*Ordered*, That the public printers forthwith print 200 copies of Nos. 3 & 4, for the use of the members of this house.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. M'Millan in the chair, which being resumed by Mr. Speaker, Mr. M'Millan reported, that the committee had, according to order, had under consideration a resolution to them referred, reported from the committee to whom was referred, the memorials of John Kinney and Thomas T. Barr, preferring sundry charges against Benjamin Mills, Esq. one of the Judges of the Court of Appeals, and had made some progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

And then the house adjourned.

## THURSDAY, NOVEMBER 8, 1821.

Mr. R. C. Anderson presented the petition of a committee on behalf of the citizens of Louisville, praying the legislature to grant them pecuniary aid in the erection of a public Hospital in said town, and to make provision for defraying the expences incident to the establishment of a Hospital in said town.

And Mr. Gordon presented the memorial of sundry citizens of Madisonville in Hopkins county, praying that a law may pass to designate and establish as the beginning corner of said town, a point agreed on among the owners of the lots therein.

Which petitions were severally received and read; the first was laid on the table; and the second was committed to a select committee of messrs. Gordon, Yancey, Lockett and M'Clanahan, giving said committee leave to report thereon by bill or otherwise.

Mr. Payne presented the petition of Samuel Chism, praying a divorce from his wife, Nancy.

Which was received and read.

And the question being taken on referring the said petition to the proper committee, it was decided in the negative, and so the said petition was rejected.

Whereupon, on the motion of Mr. Payne, leave was given to withdraw said petition and the accompanying documents.

Mr. Yantis from the joint committee of enrolments, reported that the committee had presented to the governor, for his approbation and signature, the bills signed by the Speaker of this house on yesterday.

Mr. Logan from the committee for courts of justice, reported as unfinished business of the last session, a bill authorising the Register to perform certain duties; and a bill to regulate appeals from justices of the peace to the county courts.

Which bills were severally read the first time and ordered to be read a second time.

Mr. Cogswell from the select committee to whom was referred, a bill from the senate entitled, an act to amend the militia law, reported the same with amendments.

Which being twice read were concurred in.

*Ordered*, That the said bill as amended, be read a third time to morrow.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. M'Millan in the chair, which being resumed by the Speaker, Mr. M'Millan reported, that the committee had, according to order, had under consideration a resolution roported by the select committee to whom was referred, the memorials of John Kenney and Thomas T. Barr, exhibiting sundry charges against Benjamin Mills, Esq. one of the Judges of the Court of Appeals, and had made some further progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

And then the house adjourned.

## FRIDAY, NOVEMBER 9, 1821.

The Speaker of the house being absent, the house proceeded to elect a Speaker protem.

Mr. Catlett nominated Mr. William M'Millan as a proper person to fill that office; Mr. Fletcher nominated Mr. Anthony Butler; and Mr. Cravens nominated Mr. Richard C. Anderson. And upon taking a vote, it stood thus:

For Mr. William M'Millan—Messrs. Catlett, Cogswell, Cooper, Craig, Dejarnett, Howard, Jackman, May, M'Clanahan, Sandford, Stone of Madison, Talbot and C. H. Taylor—13.

For Mr. Anthony Butler—Messrs. R. C. Anderson, Brents, Brooking, Calhoun, Cockerill, Desha, Duncan,

Eaves, Fletcher, Gaither, J. G. Hardin, Herald, J. Mason, H. M'Elroy, M'Cracken, Moore, Pendleton, Rudd, Selby, Slack, Wiley, Worthington and Yancey—23.

For Mr. R. C. Anderson—Messrs. Alexander, Allen, J. S. Anderson, Bradford, A. Butler, Cowan, Cravens, Crawford, Goode, Gordon, Green, Griffith, M. Hardin, Kinchelloe, Litton, Lecompte, Lockett, Logan, Love, Luckett, Lynch, B. Mason, M'Millan, Miller, Mullens, Munford, Murray, Noland, Patterson, Payne, Pearcy, Speed, Stone of Wayne, J. Taylor, Thompson, Warfield, White, Witherspoon, Yantis and Younger—40.

Whereupon Mr. R. C. Anderson having received a majority of the votes given, was declared duly elected, and conducted to the chair, from whence he recommended the observance and preservation of good order and decorum.

Mr. Cockerill presented the petition of sundry citizens of Monroe county, praying that a part of said county may be added to the county of Allen.

Mr. Moore presented the petition of David G. Cowan, administrator with the will annexed, of Isabella Rogers, dec. praying that a law may pass, to authorise a sale of the real estate of the decedant, for the purpose of enabling him to pay the debts due by said estate, and to pay over the balance of the proceeds of sale to the devisees named in said will.

Mr. Lecompte presented the petition of Matilda Hensley, praying a divorce from her husband, Robert Hensley.

Mr. Warfield presented the petition of sundry citizens of Harrison county, praying for the formation of an election precinct therein.

Which petitions were severally received, read and referred; the 1st and 4th, to the committee of propositions and grievances; the 2d, to the committee for courts of justice; and the 3d, to the committee of religion.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration the petition of the Baptist Church at Frankfort, and of the pew holders and subscribers to said Church, praying a repeal or modification of the act authorising the same to be erected on the public square in the town of Frankfort, and have come to the following resolution thereupon, to-wit:

*Resolved*, That the said petition *is reasonable*.

Which being twice read, was concurred in.

*Ordered*, That said committee prepare and bring in a bill pursuant to said resolution.

Leave was given to bring in the following bills:

On the motion of Mr. Luckett—1. A bill to amend the laws concerning the town of Louisville.

And on the motion of Mr. M. Hardin—2. A bill to repeal an act to appropriate fines and forfeitures for the purpose of promoting education, approved February 14, 1820.

The yeas and nays being required on granting leave to bring in the second bill by messrs. M. Hardin and Miller, were as follows, to wit:

Yeas—Mr. Speaker, messrs. Allen, Anderson, Calhoun, Cogswell, Cooper, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Goode, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Kincheloe, Litton, Lecompte, Lockett, B. Mason, May, M'Clanahan, H. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Murray, Noland, Patterson, Payne, Pearcy, Pendleton, Rudd, Sandford, Shannon, Slack, Smith, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, White, Wiley, Witherspoon, Worthington, Yancey and Younger—56.

Nays—Messrs. Alexander, Bradford, Brents, Brooking, A. Butler, W. O. Butler, Catlett, Clark, Cockerill, Cowan, Eaves, Fletcher, Gaither, Howard, Jackman, Logan, Love, Luckett, Lynch, J. Mason, M'Connell, Moore, Mullens, Selby, Slaughter, Speed, Stone of Madison, Thompson, Warfield and Yantis—30.

Messrs. Luckett, Logan and Alexander were appointed a committee to prepare and bring in the first bill; and messrs. M. Hardin, Talbot and C. H. Taylor, the second.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. M'Millan in the chair, which being resumed by the Speaker, Mr. M'Millan reported, that the committee had, according to order, had under consideration the report of the select committee in the case of Judge Mills, and had made some further progress therein; but not having time to go through the same, had instructed him to ask for leave to sit again.

And then the house adjourned,

## SATURDAY, NOVEMBER 10, 1821.

Mr. Logan from the committee for courts of justice, made the following report, viz:

The committee for courts of justice have, according to order, had under consideration, the petition of the administrators of Edmund Morriss, dec. representing that his personal estate is exhausted, that executions on replevin bonds are now in the hands of the officer; praying that a law may be passed authorising them to sell so much of his real estate as may be sufficient to pay his debts; and have come to the following resolution thereupon, to-wit:

*Resolved*, That the said petition *is reasonable*.

Which being twice read, was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution.

On motion,

*Ordered*, That Mr. Witherspoon be added to the committee to whom was referred, so much of the governor's message as relates to education and the Transylvania University: That Mr. Lockett be excused from and Mr. Munford be added to the committee on the part of this house, to examine and report the state of the Auditor's office.

Mr. Love from the select committee to whom was referred, so much of the governor's message as relates to the boundary line between this state and the state of Tennessee, and the remonstrance of sundry citizens of Cumberland county, against the establishment of said line, made the following report, viz:

The committee to whom was referred, the petition of sundry inhabitants of Cumberland county, stating that the line lately run and marked by William Steele, the surveyor appointed for that purpose on the part of this state, in conjunction with a surveyor on the part of the state of Tennessee, has been incorrectly and improperly run, have had the same under consideration, and from the best information they have been able to obtain, have come to the following resolution.

*Resolved*, That the said petition *be rejected*.

*Resolved*, That a bill be reported establishing said line, as run by William Steele on the part of this state and Absalom Looney on the part of the state of Tennessee.

Which being twice read, was concurred in.

The bill reported by said committee, was then read the first time and ordered to be read a second time.

Mr. May moved the following resolution, viz:

*Resolved*, That there be dollars appropriated for the opening of Big Sandy river, in Floyd county.

Which being twice read, was committed to a select committee of messrs. May, Fletcher, Catlett, Brents & M'Millan.

On the motion of MR. White,

*Ordered*, That leave be given to bring in a bill to alter and amend the fifth section of an act entitled, an act to amend and reduce into one the several acts regulating Middletown in Jefferson county: And that messrs. White, Younger and Lecompte, be appointed a committee to prepare and bring in the same.

MR. Logan presented the petition of Culvin Sanders of Shelby county, praying that a law may pass to exonerate him from any penalties incurred for a violation of the law regulating billiard tables, and to permit him to pay the tax due on a billiard table set up by him during the last year.

Which petition was received, read and referred to the committee for courts of justice.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz.

By MR. Luckett—1. A bill to amend the several acts concerning the town of Louisville.

And by MR. Gordon—2. A bill to regulate and establish the town of Madisonville.

Which bills were severally received and read the first time, and ordered to be read a second time.

A message from the senate by Mr. Owens:

*Mr. Speaker*,

The senate have passed a bill entitled, an act authorising the Keeper of the Penitentiary to build a smoke house—in which bill they request the concurrence of this house.

And then he withdrew.

A bill from the senate entitled an act to increase and regulate the Judicial Districts was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill being dispensed with, the same was committed to a select committee of messrs. Brents, Logan, Yantis, Smith, Love, Warfield, Crawford, Rudd, W. O. Butler, Cowan, Calhoun and Clark.

*Ordered*, That the public printers forthwith print 150 copies of said bill, for the use of the members of this house.

Mr. Payne from the committee to whom was referred, so much of the governor's message as relates to education and schools, made a report, which was read and laid on the table.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. M'Millan in the chair, which being resumed by the Speaker, Mr. M'Millan reported, that the committee had, according to order, had under consideration the report of the select committee in the case of Judge Mills, and had gone through the same without amendment.

Mr. Shannon then moved the following resolution in lieu of the resolution of the select committee, viz:

*Resolved*, That the charges against the honorable Benjamin Mills, one of the Judges of the Court of Appeals, are sufficiently supported by testimony to justify and require his removal from office by address.

And the question being taken on adopting the amendment proposed, it was decided in the negative.

The yeas and nays being required thereon by messrs. Shannon and Worthington, were as follows, viz:

Yeas—Messrs. Allen, Bruce, Calhoun, Cockerill, Craig, Cravens, Davis, Desha, Duncan, Green, Hughes, Inglish, Litton, Lecompte, Lockett, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, Patterson, Pearcy, Rudd, Sandford, Shannon, J. Taylor, Wiley, Worthington and Younger—34.

Nays—Mr. Speaker, messrs. Alexander, Anderson, Bradford, Brents, A. Butler, W. O. Butler, Catlett, Clark, Cogswell, Cooper, Cowan, Crawford, Dejarnett, Eaves, Fletcher, Gaither, Goode, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Jackman, Kincheloe, King, Logan, Love, Luckett, B. Mason, M'Connell, M'Millan, Murray, Noland, O'Bannon, Payne, Pendleton, Pope, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Witherspoon, Yancey and Yantis—53.

The question was then taken on adopting the report of the select committee, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Shannon and Cockerill, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, Anderson, Bradford, Brents, A. Butler, W. O. Butler, Catlett, Clark, Cogswell, Cooper, Cowan, Crawford, Dejarnett, Eaves,

Fletcher, Gaither, Goode, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Jackman, Kincheloe, Logan, Love, Luckett, B. Mason, M'Connell, M'Millan, Murray, Noland, O'Bannon, Payne, Pendleton, Pope, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Witherspoon, Yancey and Yantis—52.

Nays—messrs. Allen, Bruce, Calhoun, Cockerill, Craig, Cravens, Davis, Desha, Duncan, Green, Hughes, Inglish, Litton, Lecompte, Lockett, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, Patterson, Pearcy, Rudd, Sandford, Shannon, J. Taylor, Wiley, Worthington and Younger—34.

Mr. Clark read and laid on the table the following resolutions, viz:

*Resolved by the Senate and House of Representatives*, That no Judge should sit in and determine a cause between a corporation (of which he is a member and has therein an interest) and any other party.

*Resolved by the Senate and House of Representatives*, That no Judge of the Court of Appeals, should sit in a cause which he has decided below.

*Resolved by the Senate and House of Representatives*, That no Judge of the Court of Appeals, should interfere in the management of causes below.

*Resolved by the Senate and House of Representatives*, That in criminal cases, the jury have a right to judge as well of the law as the fact.

And then the house adjourned.

## MONDAY, NOVEMBER 12, 1821.

Mr. M'Clanahan presented the petition of sundry citizens of the town of Carlisle, praying that a law may pass to give more extensive powers to the trustees of said town, than they now possess under the general law regulating towns, and for the better regulation of said town.

Mr. Slaughter presented the petition of sundry citizens of Warren county, counter to that formerly presented, praying that a part of said county may be added to the county of Barren.

Mr. Bradford presented the petition of sundry citizens residing in the north-west end of Scott county, praying that the county court of Scott county may be authorised to

appoint an additional constable, to reside in that part of said county.

Mr. Gaither presented the petition of sundry citizens of Adair county, counter to that formerly presented, praying for the formation of a new county out of the counties of Adair, Cumberland and Wayne.

Mr. Lynch presented the petition of sundry citizens of Simpson county, praying that a law may pass, to divorce Sally Goss from her husband, Jonathan R. Goss.

Mr. Payne presented the petition of James Allen of Montgomery county, representing that he was confined in the jail and penitentiary house of this commonwealth for two years, for a supposed breach of the statute of this commonwealth, prohibiting any person from keeping instruments for counterfeiting money in his house, and praying to be restored to the rights, privileges and immunities of a free citizen of this commonwealth.

Which petitions were severally received, read and referred; the first to a select committee of messrs. M'Clanahan, Hughes and Allen; the third to a select committee of messrs. Bradford, Patterson and Todd, giving said committees leave to report thereon by bill or otherwise; the second and fourth to the committee of propositions and grievances; the fifth to the committee of religion; and the sixth to the committee for courts of justice.

Leave was given to bring in the following bills, viz:

On the motion of Mr. A. Butler—1. A bill for the benefit of Elijah Hise.

On the motion of Mr. J. G. Hardin—2. A bill for the benefit of the sheriff of Monroe county.

On the motion of Mr. Cravens—3. A bill for the relief of those who have paid moneys into the treasury for vacant lands, and the same lands been taken by prior claims.

Messrs. A. Butler, Cravens and Shannon, were appointed a committee to prepare and bring in the first; messrs. J. G. Hardin, Slaughter and Brooking, the second; and messrs Cravens, Yantis, Calhoun and Cooper, the third.

Mr. M. Hardin from the select committee appointed for that purpose, reported a bill to repeal an act entitled, an act to appropriate fines and forfeitures for the purpose of promoting education, approved February 14th, 1820.

Which was received and read the first time and ordered to be read a second time.

A message from the Governor by Mr. Anderson:

*Mr. Speaker,*

I am directed by the governor to inform this house, that he did on the 7th instant, approve and sign enroled bills which originated in this house, of the following titles:

An act to extend the limits of the town of Morganfield.

And an act declaring the north fork of Kentucky river a navigable stream, and for other purposes.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate have passed a bill entitled. an act for the benefit of Polly Parker and children—in which bill they request the concurrence of this house.

And then he withdrew.

On motion,

*Ordered*, That Mr. Alexander have leave of absence from the service of this house until Monday next: And messrs. Desha and Slack until Thursday next.

Mr. Jackman from the select committee to whom was referred, a bill to amend the several acts regulating sheriffs' and constables' fees in this commonwealth, reported the same with amendments.

*Ordered*, That the said bill with the amendments, be committed to a committee of the whole house on the state of the commonwealth for Wednesday next.

The house took up the resolutions laid on the table on Saturday last by Mr. Clark, which were then twice read.

The first resolution being amended by striking out the word, *should*, and inserting in lieu thereof the words, *ought to*, the question was then taken on adopting the said resolution as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Clark and Cockerill, were as follows, to-wit:

Yeas—Messrs. Allen, Anderson, Bradford, Brents, Brooking, Bruce, A. Butler, Calhoun, Clark, Cockerill, Cogswell, Cooper, Cowan, Cravens, Duncan, Fletcher, Goode, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Love, Lynch, J. Mason, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Murray, O'Bannon, Patterson, Pearcy, Pendleton, Pope, Rudd, Shannon, Slaughter, Smith, Stone of Madison, Stone of Wayne, B. Taylor, J. Taylor, C. H. Taylor, Warfield, White, Witherspoon, Worthington, Yancey, Yantis and Younger—64.

Nays—Mr. Speaker, messrs. Catlett, Crawford, Dejarnett, Eaves, Gaither, Gordon, B. Mason, Noland, Payne, Speed, Todd, Wickliffe and Wiley—14.

The second resolution having been amended in like manner, the question was then put on adopting the same as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Worthington and Clark, were as follows, viz:

Yeas—Messrs. Allen, Anderson, Bradford, Brents, Bruce, A. Butler, Calhoun, Clark, Cockerill, Cogswell, Craig, Cravens, Duncan, Goode, Green, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Jackman, Johnson, Kincheloe, Litton, Lecompte, Lockett, Logan, Lynch, J. Mason, May, M'Clanahan, H M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, O'Bannon, Patterson, Pearcy, Pendleton, Rudd, Shannon, Smith, Stone of Wayne, J. Taylor, C. H. Taylor, Worthington, Yancey and Younger—49.

Nays—Mr. Speaker, Messrs. Brooking, Catlett, Cooper, Cosby, Cowan, Crawford, Dejarnett, Eaves, Fletcher, Gaither, Gordon, Griffith, King, Love, B. Mason, M'Connell, Murray, Noland, Payne, Pope, Slaughter, Speed, Stone of Madison, B. Taylor, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon and Yantis—32.

The third resolution having been read and amended by striking out the word, *should*, and inserting in lieu thereof the words, *ought to*, it was then moved by Mr. Warfield further to amend the said resolution by subjoining thereto the following words: "*Except in cases wherein his own individual interest is involved.*"

And the question being taken on agreeing to the said amendment, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Clark and Cockerill, were as follows, viz:

Yeas—Mr. Speaker, messrs. Bradford, Brents, Brooking, A. Butler, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Dejarnett, Eaves, Fletcher, Gaither, Goode, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Jackman, Johnson, Kincheloe, King, Lockett, Logan, Love, Luckett, B. Mason, M'Connell, S. M'Elroy, M'Cracken, Murray, Payne, Pope, Slaughter, Smith, Speed, Stone of Madison, B. Taylor, C. H. Taylor, Warfield, White, Wickliffe, Yancey and Yantis—43.

Nays—Allen, Anderson, Bruce, Calhoun, Catlett, Cockerill, Cooper, Cravens, Duncan, Green, Hughes, Inglish,

Litton, Lecompte, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, M'Millan, Mullens, Munford, Noland, O'Bannon, Patterson, Pearcy, Pendleton, Rudd, Sandford, Shannon, Stone of Wayne, J. Taylor, Todd, Wiley, Worthington and Younger—36.

The question was then put on adopting the said third resolution as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Clark and Cockerill, were as follows, viz:

Yeas—messrs. Allen, Anderson, Bradford, Brents, Brooking, Bruce, A. Butler, Calhoun, Clarke, Cockerill, Cogswell, Cooper, Cosby, Cowan, Craig, Cravens, Dejarnett, Duncan, Eaves, Fletcher, Goode, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Love, Luckett, Lynch, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, O'Bannon, Patterson, Pearcy, Pendleton, Pope, Rudd, Sandford, Shannon, Slaughter, Smith, Stone of Madison, Stone of Wayne, B. Taylor, J. Taylor, C. H. Taylor, Warfield, White, Witherspoon, Yancey, Yantis and Younger—72.

Nays—Mr. Speaker, messrs. Catlett, Crawford, Gaither, Gordon, B. Mason, Noland, Payne, Speed, Todd, Wickliffe, Wiley and Worthington—13.

The question was then taken on adopting the fourth resolution, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Clark and Cockerill, were as follows, viz:

Yeas—Messrs. Allen, Anderson, Bradford, Brents, Brooking, Bruce, A. Butler, Calhoun, Clark, Cockerill, Cogswell, Cooper, Cowan, Craig, Cravens, Dejarnett, Duncan, Fletcher, Goode, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Luckett, Lynch, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, O'Bannon, Patterson, Pearcy, Pendleton, Pope, Rudd, Sandford, Shannon, Slaughter, Smith, Stone of Madison, Stone of Wayne, B. Taylor, J. Taylor, C. H. Taylor, White, Worthington, Yancey, Yantis and Younger—68.

Nays—Mr. Speaker, messrs. Catlett, Cosby, Crawford, Eaves, Gaither, Gordon, Love, B. Mason, Noland, Payne,

Speed, Todd, Warfield, Wickliffe, Wiley and Witherspoon —17.

*Ordered*, That Mr. Clark, carry said resolutions to the senate and request their concurrence.

Mr. Cogswell read and laid on the table the following resolution, viz:

*Resolved by the Senate and House of Representatives*, That hereafter no judge in this commonwealth shall set or decide in any case that he has heretofore defended or prosecuted as an attorney.

Mr. Logan moved the following resolution, viz:

*Resolved*, That on questions of law, appertaining to, and involving the life, liberty or property, of the citizens of this commonwealth, it is the peculiar province of the judicial department and not of the legislature, to decide: *Provided, however*, That the judges are responsible for misbehaviour in office, to the legislature in the mode prescribed by the constitution.

Which being twice read—it was then moved and seconded to postpone the further consideration of said resolution until the first day of March next.

And the question being taken thereon it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Logan and Cockerill, were as follows, viz:

Yeas—Mr. Speaker, messrs. Allen, Anderson, Brooking, Bruce, A. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cravens, Crawford, Duncan, Fletcher, Gaither, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Jackman, Johnson, Kincheloe, Litton, Lecompte, Lockett, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, O'Bannon, Payne, Pearcy, Pendleton, Rudd, Sandford, Shannon, Slaughter, Stone of Wayne, B. Taylor, J. Taylor, Wickliffe, Wiley, Witherspoon, Worthington, Yancey and Younger—58.

Nays—Messrs. Bradford, Brents, Cooper, Cosby, Cowan, Craig, Dejarnett, Eaves, Goode, Gordon, Logan, Love, Luckett, M'Millan, Murray, Noland, Patterson, Pope, Smith, Speed, Stone of Madison, C. H. Taylor, Todd, Warfield, White and Yantis—26.

Messrs. Warfield, Love, Wiley and Cosby, submitted the following protest, which was ordered to lie on the table, viz:

The undersigned, who voted in the negative upon the 4th resolution offered by Mr. Clark, and which has been adopted, beg leave to state, that although they voted against the adoption of that resolution, they believe the law to be as declared in said resolution.

And they here assign the reason which influenced them to give that vote: It is their opinion, that it is the exclusive province of the legislature to enact and pass laws; and it is the peculiar province and duty of the judiciary, to decide upon those laws—and that it is improper for either the legislature or the judiciary to interfere with each other in discharging the duties assigned to either department. And believing that the legislature in adopting that resolution, was interfering improperly with the duties of the judiciary, they voted against its passage.

BEN. WARFIELD,
JAMES LOVE,
DABNEY C. COSBY.

And then the house adjourned.

## TUESDAY, NOVEMBER 13, 1821.

The Speaker having returned to the house, resumed the chair.

Mr. Love presented the petition of Andrew Craig, David Craig, Joseph Payne and John England, praying that a law may pass authorising and directing the Register of the Land Office to make deeds to them for certain lands, which were sold at the Register's sales for taxes and purchased by John Logan, dec. and others, and for which they hold said Logan's bonds for a conveyance.

Mr. M'Connell presented the petition of Hiram Wilhoit, guardian for Ansel Wilhoit a minor, praying that a law may pass, authorising a sale of a piece of land containing about 20 acres, belonging to his ward, for the purpose of discharging a debt due by his said ward.

Mr. Brooking presented the petition of Andrew M'Night, guardian to the infant heirs, and John Stone administrator of the estate of James M'Night, dec. praying that a law may pass to authorise a sale of the real estate of said decedant, for the purpose of discharging the debts due by said estate.

Which petitions were severally received, read and referred; the first to the committee for courts of justice; the

second to a select committee of messrs. M'Connell, Buford, Bradford, Todd and Jackman; and the third to a select committee of messrs. Brooking, Buford, Slaughter, Davis and Allen, giving said committees leave to report thereon by bills or otherwise.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to-wit:

*Resolved*, That the petition of Sally Smith, representing that her husband, Hugh Smith, has abandoned her for about four years, and is living with another woman in the Arkansas territory, and praying for a divorce, *be rejected*.

*Resolved*, That the petition of Matilda Hensley, representing that her husband, Robert Hensley, has abandoned her for about six years—that he has been for his crimes, sentenced to serve three years in the Penitentiary of Virginia, and praying for a divorce, *be rejected*.

*Resolved*, That the petition of sundry citizens of Simpson county, for and in behalf of Sarah Goss, representing that in January, 1820, she intermarried with Jonathan R. Goss—that he abandoned her in a very short time, without any just cause, and without making any provision for her support, and praying she may be divorced from her said husband, *be rejected*.

Which being twice read, (and the second resolution amended by striking out the words, *be rejected*, and inserting in lieu thereof the words, *is reasonable*,) were concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the second resolution.

Mr. B. Taylor from the committee to whom was referred, so much of the governor's message as relates to the Penitentiary, made the following report:

The committee to whom was referred, the part of the governor's message that relates to the Penitentiary, have attended to the duty assigned them, and submit the following report and resolutions thereon—

The decayed and circumscribed state of the institution, presents the alternatives of either speedily abandoning this mild, philanthropic, and (in the opinion of the committee) beneficial system of punishment, or of making those repairs that are required for the safe keeping of the convicts and the preservation of the buildings, connected with an enlargement of the establishment, which is necessary if the solita-

ry confinement of the convicts be requisite, and appears indispensible to their profitable employment.

The committee do not consider it a part of their duty to contrast the policy of this benign system of punishment with a more sanguinary one; nor could they think it necessary in this enlightened age.

Other considerations, that may not appear immediately connected with the duties assigned to the committee, suggest themselves as worthy of the attention of the legislature, and are herewith submitted.

*Resolved*, That a law ought to pass, authorising the enlargement of the penitentiary walls, the addition to be on the east side thereof, and the old walls to be raised higher and better secured on top.

*Resolved*, That the roofs of the front building and cells, ought to be renewed, and the porticoes in front and the keeper's apartments repaired.

*Resolved*, That a building ought to be erected extending from the north end of the front building to the outer wall, the lower story to be used as a cooking and eating room for the convicts, and the upper story for a meat house.

*Resolved*, That the number of cells should be increased, so as to admit of occasional solitary confinement.

*Resolved*, That the stone-cutting business should be measurably discontinued, being unprofitable to the state and useless to the individuals as a trade, when released from confinement.

*Resolved*, That a change in the plan of victualling the convicts is required, both by economy and a regard to the certainty of their being supplied with wholesome provisions in due quantity.

*Resolved*, That the bedding accommodations of the convicts, should be more comfortable.

*Resolved*, That the punishment of the convicts by stripes, should either be dispensed with altogether, or regulated otherwise than by the feelings of the keeper.

*Resolved*, That the salary and perquisites of the keeper together, should not exceed a certain amount.

*Resolved*, That badges of infamy should cease when the term of punishment by confinement expires; and that on the release of each convict, he should be furnished with a new suit of common citizens' apparel and the sum of dollars out of the public treasury.

Which was read, and the resolutions recommended by said committee, were then concurred in.

*Ordered*, That said committee prepare and bring in a bill or bills pursuant thereto.

On the motion of messrs. Wickliffe, Crawford, Gaither, B. Mason, Gordon, Noland, Catlett, Todd, Speed, Payne, Eaves, Wiley and Witherspoon, the following protest was ordered to be inserted on the journal as a part thereof, viz:

The undersigned, with a due respect for the opinions of the majority, beg leave to assign their reasons for their vote upon the resolutions offered by Mr. Clark.

1st. We believe the sentiments expressed in the three first resolutions, are correct; but that they are fit subjects of legislative enactment. The resolutions are not binding upon the judiciary.

2d. We believe that the resolutions operate as an indirect censure upon an individual whom this house refused to censure directly. If that individual has deserved censure, and this house can and wish to exercise the right of censure, we prefer operating directly upon the subject.

3d. As men, we recognize the principle embraced in the 4th resolution, with its correct judicial interpretation, viz: That the jury have a right to return a general verdict of *not guilty*, in criminal cases, which cannot be controled by the court; at the same time, we recognize the right of the judge, in the progress of the trial, when called upon, to declare to the jury what the law is. We believe this house has no right by resolution, to interpret and expound law. Our powers are legislative only. The right to expound the laws and constitution in courts of justice, in controversies touching life, liberty or property, exclusively belong to the judicial department of government, to be exercised by its functionaries under their constitutional responsibility, and not that of legislative resolution.

C. A. WICKLIFFE,
JAS. CRAWFORD,
NATHAN GAITHER,
BENJ. MASON,
WM. GORDON,
JESSE NOLAND,
HORATIO CATLETT,
JOHN H. TODD,
THO. SPEED.
JILSON PAYNE,
JOHN S. EAVES,
HUGH WILEY.

The undersigned admits the correctness of the above resolutions, in the abstract principle; but disapproves the mode of legislating by this house, with due respect to the opinions of a majority, by resolutions; and thinks that the object would have been more fully obtained by statute.

J. R. WITHERSPOON.

MR. Patterson from the joint committee appointed to examine and report upon the state of the Register's Office, made the following report, viz:

The joint committee of the senate and house of representatives, appointed to examine and report the state of the land-office, have performed the duty required, and report as follows:

That they find, transmitted from the Virginia land-office, 273 bundles of surveys, neatly labelled, with an alphabet; also, 15 bundles containing the caveated and defective surveys on which grants have issued; 5 bundles caveated surveys, 2 bundles defective surveys and 1 bundle surveys misplaced from their proper bundles—all neatly labelled and recorded in 11 volumes, well bound, with a complete alphabet; 2 bundles of warrants located and misplaced, 1 bundle copy of wills, 16 volumes, the record of grants issued on the aforesaid surveys, in good order, with a complete alphabet. The record of military warrants from the Virginia land-office, in 2 volumes, with alphabets and in good order; a list of the Virginia treasury warrants, in 2 volumes; the record of pre-emption warrants, in 1 volume, and a volume containing the record of warrants under the proclamation of 1763, with alphabets and in good order. Commissioners' certificates granted in 1779 and '80, in 2 volumes, with alphabets, in good order. The sale-books of non-residents' lands for the years 1800-1-2 and 4, have a new alphabet—the books are somewhat worn; the books in which the sales of 1805-6-7-8-9-10-11-12-13-14-15-16-17-18-19 and 20 are recorded, they find in good order, with alphabets. Two volumes in which surveys have been registered since 1792, in good order—the said surveys are tied up in 141 bundles, neatly labelled, with an alphabet; the record of those surveys, together with the record of some grants, are in 10 volumes, with an alphabet, in good order; the grants issued on the aforesaid surveys are in 19 volumes, to which there is an alphabet in good order. The surveys upon head-right claims are neatly registered in 3 volumes, with two alphabets, one of which is somewhat worn; the head-right plats and certificates of surveys, are

fied in 300 bundles, neatly labelled, and recorded in 17 volumes, with two alphabets, new and in good order: the grants issued thereon, recorded in 26 volumes, well bound, with two alphabets in good order. The land warrants issued under the act of 1800, the surveys and grants on the same, as also the Tellico surveys and grants, are in 2 volumes—they are registered in 1 volume; the original surveys tied up in bundles and neatly labelled, all in good order. Nine bundles certificates on which warrants have issued, 7 bundles certificates of sale of non-residents' lands on which deeds have issued, 1 bundle attorney-general's opinions to the register, 5 bundles county court certificates, 8 bundles caveats since 1792, 4 bundles caveated surveys since 1792, 2 bundles surveys not registered for want of fees since 1792, 1 bundle defective surveys since 1792, 16 bundles vouchers on which the late Kentucky land warrants have issued, all neatly labelled and in good order. One volume containing the surveys under the proclamation of 1763, with an alphabet; 2 volumes of certificates granted in 1796, and 3 volumes in 1798, with alphabets; Anderson's and Croghan's military entry books, with alphabets; the transcript of Lincoln entries, in 2 volumes, with an alphabet, in good order; May's entry (so called) transcribed in 5 volumes, with two alphabets, in good order; 1 volume of Green's deputy register of surveys made previous to June 1792; 1 volume of relinquishments, in tolerable order; a list of Kentucky land warrants issued under the act of 1814, and the subsequent acts, in 1 volume, and the record of said warrants in 4 volumes; the original surveys made on said warrants are tied up in 93 bundles, neatly labelled, and recorded in 6 volumes, well bound—the grants issued thereon, recorded in 8 volumes, well bound, with an alphabet in good order; 2 volumes registers of said surveys, with an alphabet, in good order; 3 volumes in which caveats are recorded, with alphabets; 1 volume of commissioners' certificates granted in the year 1780, with an alphabet.

Your committee beg leave to state, that 11 books of original entries from the county of Fayette, 1 book of original entries from the county of Mercer, 1 from Bourbon and 1 from Nelson, have been returned by the surveyors of said counties to the register's office, agreeably to the requisitions of an act approved February 12th, 1820; which books aforesaid your committee find considerably worn and mutilated, and submit to the house the propriety of some act of

the legislature, directing the register to copy such parts of said books as it may be practicable to transcribe.

All which is most respectfully submitted.

ALEXANDER LACKEY, } Senate.
N. D. ANDERSON, }
WM. MOUNTJOY, }
JOHNS. J. COCKERILL, } House of Rep's.
JAMES PATTERSON, }
COLBY H. TAYLOR, }
LEE WHITE, }
SAMUEL S. BROOKING, }
JAMES M'CONNELL, }
HUGH WILEY, }

On the motion of MR. Moore, leave was given him to enter his vote in the *affirmative*, upon the question of concurring in the report of the select committee raised to enquire into certain charges preferred against Benjamin Mills, Esq. one of the judges of the Court of Appeals.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By MR. Bradford—1. A bill to authorise the appointment of an additional constable in Scott county.

And on the motion of MR. Patterson—2. A bill for the benefit of the heirs of Stephen Rossell, deceased.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the former bill being dispensed with, the same was committed to a select committee of messrs. Cosby, Bradford and Griffith.

Leave was given to bring in the following bills, viz:

On the motion of MR. King—1. A bill to amend the charter of the Bank of the Commonwealth of Kentucky.

And on the motion of MR. J. G. Hardin—2. A bill to amend an act to establish a Seminary of learning in the county of Monroe.

Messrs. King, Davis, Brents and Todd were appointed a committe to prepare and bring in the first; and messrs. J. G. Hardin, Yancey and Munford the second.

On the motion of MR. Payne,

*Ordered*, That the vote by which a resolution of the committee of religion, *rejecting* the petition of John Hornback for a divorce was concurred in, be reconsidered, and that the same be recommitted to the committee of religion.

A bill to authorise Richard L. Walker and Nathan Harris to erect a mill dam across Rough creek in Ohio county, was read a second time and ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill having been dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That mr. Calhoun carry the said bill to the senate and request ther concurrence.

*Ordered*, That the report of the committee on so much of the governor's message as relates to the Bank of the Commonwealth, be committed to a committee of the whole house on the state of the commonwealth.

The house then, according to the standing order of the day, sesolved itself into a committee of the whole house on the state of the commonwealth, Mr. Yantis in the chair, which being resumed by Mr. Speaker, Mr. Yantis reported, that the committee had, according to order, had under consideration sundry resolutions to them referred, and had made some further progress therein; bu tnot having time to go through the same, had instructed him to ask for leave to sit again.

And then the house adjourned.

## WEDNESDAY, NOVEMBER 14, 1821.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of sundry citizens of the counties of Rockcastle, Clay and Knox, praying for the formation of a new county out of a part of each of said counties. *be rejected.*

*Resolved*. That the petition of sundry citizens of the county of Logan, praying that a part of said county be added to the county of Todd, *is reasonable.*

Which being twice read, was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the second resolution.

Mr. M'Millan from the same committee, also reported the following resolution, which had been recommitted to them, without amendment, viz:

The committee of propositions and grievances have, according to order, had under consideration the petition of sundry citizens of the counties of Franklin, Washington and Mercer, praying for the formation of a new county out of a part of each of said counties, and have come to the following resolution thereupon, to-wit:

*Resolved*, That the said petition *is reasonable.*

Which being twice read and amended by striking out the words, *is reasonable*, and inserting in lieu thereof the words, *be rejected*, was concurred in.

Mr. Logan from the committee for courts of justice, made the following report, viz:

The committee for courts of justice have, according to order, had under consideration, the petition of Culvin Sanders, representing that he omitted by mistake, to list a billiard table for taxation, and praying that he may be relieved by paying the tax only, from the time of setting up the said table; and have come to the following resolution thereupon, to wit:

*Resolved*, That the said petition *is reasonable.*

Which being twice read, was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By Mr. Payne from the committee of Religion—1. A bill for the divorce of William Spangler and Samuel Campbell.

By Mr. Logan from the committee for courts of justice—2. A bill for the benefit of Robert Poague.

And as unfinished business of the last session—3. A bill providing for surveying the treasury warrant claims west of the Tennessee river.

4. A bill to authorise the sale of the real estate of Isabella Razor, deceased.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the first and fourth bills being dispensed with, the first was ordered to be engrossed and read a third time; and the fourth was committed to a select committee of messrs. Logan, Cowan, Smith, Luckett and Shannon.

And thereupon the rule of the house, constitutional provision and third reading of the first bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Payne carry the said bill to the senate and request their concurrence.

A message from the senate by Mr. Faulkner:

*Mr. Speaker*,

The senate have passed bills of the following titles: An act to amend an act entitled, an act to amend an act directing certain surveyors to transcribe certain entry books; an act to prevent horse racing on the public highways; and an act to legalize the proceedings of the Floyd county court—in which bills they request the concurrence of this house.

And then he withdrew.

Leave was given to bring in the following bills:

On the motion of Mr. Smith—1. A bill to raise the pay of the members of the legislature for the first fifty days of each session, and to reduce it for the balance of the session, and for other purposes.

On the motion of Mr. Cockerill—2. A bill to regulate appeals from justices of the peace in this commonwealth.

And on the motion of Mr. Love—3. A bill making compensation to the surveyor appointed on the part of this state, for running and marking the boundary line between the states of Kentucky and Tennessee.

Messrs. Smith, Cockerill, Dejarnett, Catlett, King and Munford, were appointed a committee to prepare and bring in the first; messrs. Cockerill, Pearcy, Thompson and Clark, the second; and messrs. Love, Crawford, Buford, Bradford and Eaves, the third.

Mr. Brents from the select committee to whom was referred, a bill from the senate entitled, an act to increase and regulate the judicial districts, reported the same with sundry amendments, which being severally twice read were concurred in.

It was then moved and seconded to postpone the further consideration of said bill *indefinitely*.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. M'Millan and Cockerill, were as follows, viz:

Yeas—Messrs. Buford, Catlett, Cockerill, Gaither, Goode, Gordon, Green, J. G. Hardin, M. Hardin, Hughes,

English, Kincheloe, Lecompte, Lynch, B. Mason, J. Mason, May, S. M'Elroy, M'Millan, Miller, Munford, O'Bannon, Pendleton, Rudd, Stone of Madison, Stone of Wayne, J. Taylor, C. H. Taylor and Yancey—29.

Nays—Mr. Speaker, messrs. Allen, J. S. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, Clark, Cogswell, Cooper, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Duncan, Eaves, Fletcher, Griffith, Herald, Howard, Jackman, Johnson, King, Litton, Lockett, Logan, Love, Luckett, M'Clanahan, M'Connell, H. M'Elroy, M'Cracken, Moore, Murray, Patterson, Payne, Pearcy, Pope, Selby, Shannon, Slaughter, Smith, Speed, Talbot, B. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon and Younger—57.

It was then moved and seconded to amend the first section of said bill by expunging therefrom the following clauses, viz: "The fourteenth district shall be composed of the counties of Breckinridge, Ohio, Daviess, Muhlenberg, Hopkins, Henderson and Union. The fifteenth district shall be composed of the counties of Rockcastle, Whitley, Knox, Harlan, Perry and Clay. The sixteenth district shall be composed of the counties of Franklin, Woodford, Jessamine and Owen."

A division of the question being called for, the question was first put on expunging the last clause, which proposes forming a *sixteenth judicial district*, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Cockerill and Yancey, were as follows, viz:

Yeas—messrs. J. S. Anderson, Brooking, Bruce, Buford, Catlett, Cockerill, Cogswell, Cooper, Cravens, Crawford, Dejarnett, Duncan, Eaves, Gaither, Goode, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Johnson, Kincheloe, Litton, Lecompte, Lockett, Logan, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Noland, O'Bannon, Patterson, Payne, Pearcy, Pendleton, Pope, Rudd, Selby, Shannon, Slaughter, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Wiley, Yancey and Younger—61.

Nays—Mr. Speaker, messrs. Allen, Barnet, Bradford, Brents, Clarke, Cosby, Cowan, Craig, Davis, Fletcher, Griffith, Jackman, King, Love, Luckett, Moore, Murray,

Smith, Speed, Todd, Warfield, White, Wickliffe and Witherspoon—25.

The question was then taken on expunging the second clause, proposing to form a *fifteenth judicial district*, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Yancey and Cockerill, were as follows, viz:

Yeas—Messrs. Allen, Bradford, Brooking, Bruce, Buford, Catlett, Cockerill, Cogswell, Cooper, Cowan, Cravens, Dejarnett, Duncan, Eaves, Gaither, Goode, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Inglish, Johnson, Kincheloe, Lecompte, Logan, Love, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Noland, O'Bannon, Patterson, Payne, Pearcy, Pendleton, Rudd, Shannon, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Todd, Wickliffe, Wiley, Yancey and Younger—57.

Nays—Mr. Speaker, messrs. J. S. Anderson, Barnett, Brents, Clark, Cosby, Craig, Crawford, Davis, Fletcher, Griffith, Howard, Jackman, King, Litton, Lockett, Luckett, H. M'Elroy, Moore, Murray, Pope, Selby, Slaughter, Smith, Speed, Thompson, Warfield, White, Witherspoon and Yantis—30.

The said bill was then recommitted to a select committee of messrs. Clark, Logan, Moore, Cockerill, Rudd, Bruce, Smith, Cowan, Shannon, Payne, Wickliffe, Crawford, Brents, Warfield, Lockett and Love.

And then the house adjourned.

## THURSDAY, NOVEMBER 15, 1821.

On the motion of Mr. May,

*Ordered*, That the committee to whom was referred, a bill from the senate entitled, an act to establish and regulate the judicial districts, be discharged from the further consideration of said bill, and that the same be referred to a select committee of messrs. Love, Warfield, Crawford, Bradford, Todd, White, Calhoun, Howard, Brents, Cowan, Cravens, Fletcher and Wickliffe.

Mr. Smith presented the petition of Jesse Walker, representing that he has a flattering prospect of obtaining salt water on Cumberland river for which he is about to commence boring, and that the land adjoining is vacant and unappropriated, and praying legislative permission to

locate and appropriate 500 acres thereof within a reasonable time, for the purpose of obtaining timber, should he succeed in his enterprize.

Also, the petition of Jesse Walker, Samuel Walker, Joel Walker, George Walker, Pleasant Walker and Elias Walker, representing that they are owners of 300 acres of land, on which they expect to obtain salt water, for which they are about to commence boring, and praying that a law may pass to authorise them to appropriate one thousand acres of the adjoining vacant land, for the purpose of obtaining timber.

Mr. Rudd presented the petition of the Justices of the county court of Bracken county, praying that a law may pass to authorise them to build a poor house for the better accommodation of the poor of said county.

And Mr. Buford presented the petition of Rebecca Walker, praying a divorce from her husband, William Walker.

Which petitions were severally received, read and referred; the first and second to a select committee of messrs. Smith, Litton, Howard and Love; the third to a select committee of messrs. Rudd, Howard, Patterson, Bruce and Buford, giving said committees leave to report thereon by bills or otherwise; and the fourth to the committee of religion.

A message from the senate by Mr. Given:

*Mr. Speaker,*

The senate disagree to a bill which originated in this house entitled, an act to repeal in part an act entitled, an act more effectually to suppress the practice of duelling.

And then he withdrew.

Mr. M'Millan from the committee of propositions and grievances, made the following report, to-wit:

The committee of propositions and grievances have, according to order, had under consideration, the petition of sundry citizens of the counties of Barren, Monroe and Allen, praying for the formation of a new county out of a part of each of said counties, and have come to the following resolution thereupon, to-wit:

*Resolved*, That the said petition *be rejected*.

Which being twice read, was concurred in.

Mr. A. Butler from the committee to whom was referred, so much of the governor's message as relates to imprisonment for debt, made the following report, viz:

THE committee to whom was referred that part of the governor's message which relates to imprisonment for debt,

have had the same under consideration, agreeable to the order of this house; and after bestowing on the subject all that deliberation which its great interest was well calculated to demand, have agreed to the following report:

More than forty five years have passed away, since we were, by the most solemn and important act ever performed by the representatives of this nation, pronounced to be a free, sovereign and independent people. The rights which the declaration of our independence asserted, the sword of the nation maintained; and after the successful termination of a seven years' sanguinary conflict, we were recognized by all the nations of the earth, as free. If the contest which our country was engaged in, was a contest for the establishment of liberty, it was to be expected that the enjoyment of that blessing would reward those who had achieved it with their swords, and become the rich inheritance of their posterity, on the soil where it was won.—Have those expectations been realized? To this question, your committee, however humiliating the confession, are compelled to respond in the negative; for in that community whose laws authorise the imprisonment of the person for non-payment of a debt—where one individual has the power, without the charge of crime, or even the suspicion of crime committed, to restrain the person of another—where, under the operation of a system of laws, dollars and cents are estimated at higher value than the liberty of the citizen, they cannot maintain that we are free.

In the declaration of our independence, liberty is associated with other rights pronounced to be *inalienable*; and to protect and secure which, all just government is said to be instituted. If it be asked, upon what principle is the personal liberty of the citizen declared to be an *inalienable right*, we shall be told, that it rests on the principle of a state (or sovereign) having a right to the service of all its citizens—a right resulting from the very nature of the social contract, which recognizes duty and protection as relative and reciprocal—a right claimed and exercised by every government, under the various forms in which it has at different periods, and by different nations, been administered—a right never directly denied, although sometimes indirectly contravened—a right which the state exerts when she claims the services of the citizen to fight its battles, to cultivate its soil, to promote its prosperity and "signalize its fame"—a right paramount to all others, and inconsistent with the opinion, that any power less than sovereignty, should, by

any sanction, have the means of restraining the person of a citizen, and thereby deprive the government of his service. Upon principle, therefore, it may be safely asserted, that the only power over the person of a citizen, is a power residing in the state, to be exerted only for public purposes; the power of demanding personal service in defence of the nation; the power of punishing the person by imprisonment or death, for offences against the state.

Having disposed of the question, whether, upon principle, the imprisonment of the person for debt can be justified, it remains to be considered, whether, in any just view of the question, it can be supported as a measure of sound policy or expediency.

That the property of the debtor should be amenable, in its fullest extent, to the demands of his creditor, is admitted. That it should be appropriated, to its last cent, in discharge of obligations entered into in good faith, is a position that every well regulated mind is prepared to maintain. That any right exists, or that any power should be conferred on a creditor by law, to press his demand beyond that limit, may as justly be denied. It is believed, that no just construction of any contract ought to carry you farther than compelling a debtor to pay to the full extent of his property; and it may be considered as an implied condition of all contracts, (without doing violence to any moral principle,) that when this is complied with, the contract should be discharged. It is upon this, as a principal ground, that insolvent laws and bankrupt laws are sustained; and any argument which urges the establishment of a doctrine opposed to that which we advance, would be an argument at variance with the spirit of our institutions, and directly subversive of a principle recognized by, and incorporated in our own bill of rights; it would be to treat misfortune as a crime, and to inflict punishment indiscriminately—confounding the honest, industrious and high-minded man, with the base, dishonest and unworthy. It would, moreover, exhibit the rare spectacle of the same community standing forth as advocates for ameliorating the condition of society, by relaxing the inflictions of our penal code; and whilst they zealously maintain the propriety of lessening punishment for crime, in the name of humanity, they would rigorously punish misfortune, under the sanction of justice.

If we enquire at what period and under what circumstances the practice of imprisoning the body for debt, was first introduced in England, we shall find that it commenced

during the prevalence of the feudal system, when every chieftain was sovereign within the limits of his own domain, and from whose decision there was no appeal but to arms. Imprisonment was first applied to the receivers of money, or bailiffs to those chieftains and great land-holders of that barbarous age, to compel the settlement of their accounts, and the payment over of money received for their lords—it was enforced in violation of all former usage, directly in opposition to the provisions of Magna Charta, as well as against the received and established doctrines of the common law. From such beginnings, we find the practice extending itself until the mischief grew to an alarming height, and when the evil at length reached such magnitude of oppression as to call for the interposition of Parliament, it, first by insolvent laws, and subsequently by statutes of bankruptcy, relieved the prisons of that country from the crowds of unfortunate men with which they were filled, the victims of cold, merciless, unrelenting creditors. It is due to this government to vindicate the character of its institutions from the foul blot which an adoption of this remnant of the feudal system has conspired to stain it with, and to verify, that in this community liberty is enjoyed as a substantial good—not vaunted of, a mere empty boast. Every motive under the influence of which we might be proud to act, impels us to the performance of this necessary, this benevolent work. We owe it to justice—it is due to humanity—respect for the principles of that government of which we are justly proud, demands of us that we should tear from our statutory code, this graft of barbarism and tyranny, by which it is encumbered and deformed.

Your committee have attempted to shew, that upon no ground which might claim the sanction of a humane and rational mind, can imprisonment for debt be justified. With what success they have done so, remains with the legislature to decide. In considering this subject, they were not unapprised of the difficulties they had to encounter, when long established habits were to be overcome, and prejudices in favor of old and familiar systems, were to be attacked and removed. But they entered upon the task with the stronger hope of success, because they felt that the principles which it became necessary to advance in this report, were such as would find an advocate in the heart of every freeman. The patriot will see in its adoption, means of giving back to society, many active, useful and valuable citizens, whose energies have been withered and all their efforts paralyzed, by

the humiliating conviction, that their persons and their freedom were pledged by the operation of law, to a merciles creditor.

The friend of humanity will perceive in its redeeming spirit, a rescue of the unfortunate debtor from that state of listless indolence, of heartless, purposeless being, into which he must forever fall, whilst the sanction of society awards to the unfortunate as a measure of justice, that punishment which belongs alone to the guilty.

The honorable and honest debtor will be relieved from a contemplation of those appalling scenes, that now pass in dreadful panorama before him. He will be restored to active life and revived hopes; incentives to exertion are presented in the protection of his person from degradation and restraint—and he who yesterday was a being heartless, inert and valueless, may to-morrow become to the state a valuable citizen, to his family the stay, the hope and example.

For the purpose of carrying into effect the views of the committee on this subject, they would beg leave to submit the following resolution.

*Resolved*, That imprisonment for debt should be abolished, except in cases of fraudulent concealment of property on the part of the debtor; and that a committee be raised to bring in a bill for that purpose.

The resolution recommended by said committee, was then concurred in.

*Ordered*, That messrs. A. Butler, Pope, Moore, Brents, Speed and Shannon, be appointed a committee to prepare and bring in a bill pursuant to said resolution.

*Ordered*, That the public printers forthwith print 150 copies of said report and resolution, for the use of the members of this house.

Leave was given to bring in the following bills, viz:

On the motion of MR. Wickliffe—1. A bill concerning the county court of Nelson.

On the motion of MR. Warfield—2. A bill authorising and directing the county court of Bourbon, to open and keep in repair a certain road.

On the motion of MR. Cosby—3. A bill to authorise the publication of certain advertisements in the Kentucky Patriot and Springfield Literary Register.

On the motion of MR. Howard—4. A bill to amend the act extending the charter of the Bank of Kentucky, approved Dec. 26, 1820.

And on the motion of mr. Selby—5. A bill to change the location of the branch of the Bank of the Commonwealth of Kentucky in the 8th bank district, from Greensburg to Columbia.

Messrs. Wickliffe, Speed and Todd, were appointed a committee to prepare and bring in the first; messrs. Warfield, Cogswell and Talbot, the second; messrs. Cosby, Pope and S. M'Elroy, the third; messrs. Howard, A. Butler, B. Taylor, Speed, Clark and Brents, the fourth; and messrs. Selby, Yancey, Worthington, J. G. Hardin, Davis, Green, Fletcher, Murray and King, the fifth.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By mr. M'Millan from the committee of propositions and grievances—1. A bill to add a part of Logan county to the county of Todd.

By mr. Cockerill—2. A bill to regulate appeals from justices of the peace.

By mr. Wickliffe from the committee to whom was referred, so much of the governor's message as relates to a revision of the statute laws—3. A bill to encourage the publication of a digest of the statutes.

By mr. J. G. Hardin—4. A bill for the benefit of the sheriff of Monroe county.

By mr. M'Connell—5. A bill for the benefit of Ansel Wilhoit.

By mr. J. G. Hardin—6. A bill to amend an act establishing a seminary of learning in the county of Monroe.

By mr. Wickliffe—7. A bill concerning the county court of Nelson.

By mr. Warfield—8. A bill authorising and directing the county court of Bourbon to open and keep in repair a certain road.

By mr. Love—9. A bill making compensation for the surveyor appointed on the part of this state for running and marking the boundary line between the states of Kentucky and Tennessee.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 4th, 5th, 6th, 7th and 8th bills being dispensed with, the 4th, 5th, 7th and 8th, were severally ordered to be engrossed and read a third time; and the sixth was committed to a select committee of messrs. Love, J. G. Hardin and Craig.

And thereupon the rule of the house, constitutional provision and third reading of the 4th, 5th, 7th and 8th bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Warfield carry the said bills to the senate and request ther concurrence.

Mr. Cosby from the select committee to whom was referred, a bill to authorise the appointment of an additional constable in Scott county, reported the same with an amendment, which being twice read was concurred in.

*Ordered*, That the said bill as amended be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed.

*Resolved*, That the said bill do pass and that the title thereof be amended to read, "an act to authorise the appointment of an additional number of constables in certain counties.

*Ordered*, That Mr. Bradford carry the said bill to the senate and request their concurrence.

A bill to repeal the charter of the Bank of Kentucky and for other purposes, was read a second time as follows, viz:

Whereas in the tenth article of the constitution of Kentucky, it is declared, first, that all freemen when they form a social compact, are equal, and that no man or set of men are entitled to exclusive separate public emoluments or privileges, but in consideration of public services: And secondly, that all power is inherent in the people, and all free governments founded on their authority, and instituted for the public good and happiness. And whereas it is self evident, according to those fundamental principles of government, that laws which grant to a few the power to oppress the many, are tyrannical in their nature and adverse to the primitive rights of freemen and the principles of this republic. And whereas, the principle is recognized in all free governments, that the powers and privileges given by a previous legislature, bind not a subsequent one; and, therefore, any sale of the primitive rights of freemen, is repealable by the supreme authority. And whereas, all private banking associations are aristocratic in their nature, inasmuch as they tend to the aggrandizement of a few to the oppression of the many; and as all legislative power pro-

ceeds from the people and is to be used for their prosperity and happiness only, and consequently, all laws of a contrary tendency, violate the intention of the social compact, and subject upon first principles upon the condition of being repealed. Whether the evil springs from the nature of the privilege granted or from the abuse of either, a bank charter from its nature, extends and necessarily confines the power and privileges granted to a few, to the exclusion of the many. And whereas, the legislature of eighteen hundred and twenty, by an act passed at said session, established the Bank of the Commonwealth of Kentucky, for the purpose of creating a circulating medium founded upon principles of equality, and for the purpose of relieving the good people of this commonwealth from their embarrassments. And whereas, according to the course pursued by the directory of the state bank towards the bank of the commonwealth, both institutions cannot exist upon the score of public policy: To the end, therefore, that the good people be relieved in future from the baneful effects of the powers and privileges granted to individual banking institutions, which have been exercised in many instances in the plenitude of tyranny, aristocracy and oppression, to the injury of the good people of this commonwealth: Therefore,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all power, right or privilege, granted to said corporation by the name and style of the State Bank of Kentucky, by an act entitled, an act establishing said bank, approved December 27th, 1806, and all other acts subsequent or supplemental thereto, rechartering or granting powers or privileges to trade in discounts, bills of exchange or current money, or to issue notes or bills of credit, payable to bearer or otherwise, and all other banking powers of what nature soever heretofore granted to said corporation, shall be, and the same are hereby, repealed. And for the purpose of finally closing the concerns of said institution,

§ 2. *Be it further enacted*, That the president, directors and stockholders of said bank shall have, and they are hereby allowed the further time of eight years, with power to sue and be sued, plead and be impleaded, in all courts of law or equity having jurisdiction thereof, and do all other matters and things which may be necessary to the final adjustment of the affairs of said corporation.

§ 3. *And be it further enacted*, That the said company shall pay over to the cashier of the Bank of the Commonwealth of Kentucky, the stock of the state in said institu-

tion, agreeable to valuation, after deducting all bad debts; which payment shall be made in specie, or in the notes of the Bank of the Commonwealth of Kentucky, or its branches, in three annual equal instalments—the first to be made on the last day of December, in the year one thousand eight hundred and twenty-two. And on failure to pay the same, the president of the Bank of the Commonwealth is hereby authorised and required, to institute suit in any court of law or equity, as the case may be, having jurisdiction of like sums against said corporation, by the name and style of the President, Directors and Company of the Bank of Kentucky, for each instalment as they may respectively become due. And for the purpose more effectually to prevent the exercise of banking powers by said corporation,

§ 4. *Be it further enacted*, That should said corporation after the passage of this act. in any manner exercise any of the powers and privileges of banking, they shall, for every offence, forfeit and pay the sum of dollars, recoverable in any circuit court wherein the offence may be committed, by action of debt, at the suit of the Attorney General on behalf of the Commonwealth, who is hereby required to sue for the same in the name and on behalf of the Commonwealth.

§ 5. *And be it further enacted*, That the plaintiff shall not be required in any execution hereafter issued, to make the endorsement that the paper of the said bank will be received in discharge of said execution, any law to the contrary notwithstanding.

It was then moved and seconded, to postpone the further consideration of said bill until the first day of June next.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Allen and Cockerill, were as follows, viz:

Yeas—MR. Speaker, messrs. J. S. Anderson, Barnett, Bradford, Brooking, Buford, W. O. Butler, Cosby, Cowan, Cravens, Crawford, Dejarnett, Eaves, Fletcher, J. G. Hardin, Herald, Howard, Hughes, Kincheloe, King, Logan, Love, Luckett, B. Mason, M'Connell, M'Millan, Moore, Payne, Pearcy, Pendleton, Pope, Sandford, Smith, Speed, Stone of Madison, B. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Worthington, Yancey, Yantis and Younger—46.

Nays—Messrs. Allen, Brents, Bruce, Catlett, Cockerill, Cogswell, Cooper, Craig, Davis, Duncan, Gaither, Goode,

Gordon, Green, Griffith, M. Hardin, Inglish, Litton, Lecompte, Lockett, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Mumford, Murray, Noland, Patterson, Rudd, Selby, Shannon, Slaughter, Stone of Wayne, Talbot, J. Taylor, Wiley and Witherspoon—42.

Mr. Duncan moved for leave to bring in a bill to remove the Branch of the Commonwealth's Bank of Kentucky, located in the sixth judicial district.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

Mr. Payne moved the following resolution, to wit:

*Resolved*, That it is inexpedient to legislate on the subject of removal of any Branch of the Commonwealth's Bank.

Which being twice read,

The house then adjourned.

## FRIDAY, NOVEMBER 16, 1821.

On motion,

*Ordered*, That messrs. Shannon and Desha have leave of absence from the service of this house until Monday, and Mr. Rudd until Tuesday next.

Mr. Sandford presented the petition of Nancy M'Hatton, praying a divorce from her husband, John M'Hatton.

Mr. J. G. Hardin presented the petition of the administrators and guardians of the infant heirs of George Chism, deceased, praying that a law may pass to authorise a sale of the real estate of said decedent, for the purpose of discharging the debts due by said estate.

Mr. Davis presented the petition of the shareholders of the Lexington Library Company, praying that sundry alterations and amendments may be made to the act incorporating said company.

And Mr. Brooking presented the petition of the trustees of the Warren seminary, praying that further legislative patronage may be extended to that institution.

Which petitions were severally received, read and referred; the first to the committee of religion; the second to a select committee of messrs. J. G. Hardin, Yancey, Calhoun, Patterson and Yantis; the third to a select committee of messrs. Davis, Payne, Witherspoon, Shannon and C. H. Taylor, giving said committees leave to report thereon

by bills or otherwise; and the fourth to the committee to whom was referred, so much of the governor's message as relates to education and the Transylvania University.

Mr. Wickliffe moved the following resolution, viz:

*Resolved*, That the following be adopted as a rule of this house: "When the orders of the day are taken up, and time is not allowed to go through on any one day, when they shall be again called up, the clerk shall commence with the No. at which the house ceased on the preceding day, so that each measure shall be considered in rotation.

Which being twice read was adopted.

Mr. Worthington read and laid on the table the following resolution, viz:

*Resolved by the Senate and House of Representatives*, That the Branch of the Bank of Kentucky located at Washington in Mason county, be withdrawn and merged in the mother Bank.

Mr. Love from the select committee to whom was referred, a bill to amend an act establishing a seminary of learning in the county of Monroe, reported the same with an amendment.

Which being twice read, was concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be amended to read "an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson.

*Ordered*, That Mr. Love carry said bill to the senate and request their concurrence.

The house took up a resolution laid on the table on the 26th ult. for altering the time of meeting of this house to 9 o'clock, A. M.

Which was twice read and adopted.

Mr. A. Butler from the select committee to whom was referred, a bill to amend an act for surveying the military claims west of the Tennessee river, approved December 26th, 1820, reported the same with an amendment.

*Ordered*, That the said bill and amendment be laid on the table.

Mr. Cockerill moved for leave to bring in a bill for the benefit of the poor in this commonwealth.

And the question being taken on granting leave to bring in said bill, it was decided in the negative, and so the said motion was disagreed to.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By. mr. Smith—1. A bill for the benefit of Jesse Walker.

2. A bill for the benefit of Jesse Walker and others.

By mr. Cosby—3. A bill to authorise the insertion of certain advertisements in the Kentucky Patriot & Springfield Literary Register.

And by mr. Slack—4. A bill for the benefit of the heirs of Roger Robbins, dec.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third reading of the third and fourth bills being dispensed with,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That mr. Cosby carry the said bills to the senate and request their concurrence.

Leave was given to bring in the following bills:

On the motion of mr. Stone of Wayne—1. A bill giving further time to the settlers on the lands acquired by the treaty of Tellico, to return plats and certificates of survey.

On the motion of mr. Moore—2. A bill in relation to the terms of separation between John G. Meaux and Jane Meaux.

And on the motion of mr. Lockett—3. A bill authorising the county court of Henderson to sell one acre of the public square in the town of Henderson.

Messrs. Stone, Cooper, Smith, Love and Craig, were appointed a committee to prepare and bring in the first; messrs. Moore, Cowan, A. Butler and Clark, the second; and messrs. Lockett, Cosby, H. M'Elroy, Pope and Wickliffe, the third.

Mr. Luckett moved the following resolution, viz:

*Resolved by the house of representatives of the Commonwealth of Kentucky*, That the Sergeant at Arms be instructed to procure comfortable seats to be erected in the lobby and gallery of this house, for the use of those who may attend its proceedings.

Which being twice read was adopted.

On motion,

*Ordered*, That the committee of the whole house on the state of the commonwealth, be discharged from a further consideration of a bill to alter the mode of taking in lists of taxable property; and that the same be placed in the orders of the day.

A message from the senate by Mr. Carpenter:

*Mr. Speaker*,

The senate have passed a bill which originated in this house, entitled, an act concerning the county court of Nelson.

And then he withdrew.

An engrossed bill entitled, an act declaring Big Barren river further navigable, was read a third time.

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That MR. J. G. Hardin carry the said bill to the senate and request their concurrence.

Mr. Crawford from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled, an act concerning the county court of Nelson.

And had found the same truly enrolled.

Whereupon, the speaker affixed his signature thereto.

*Ordered*, That Mr. Crawford inform the senate thereof.

Mr. Crawford after a short time reported, that the said bill had been presented to the governor for his approbation and signature.

A bill from the senate entitled, an act to amend the militia law, was read a third time as amended.

It was then moved and seconded to postpone the further consideration of said bill until the 1st day of June next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Craig and Cogswell, were as follows, viz:

Yeas—Messrs. Allen, J. S. Anderson, Cockerill, Griffith and Mullens—5.

Nays—MR. Speaker, messrs. Barnett, Bradford, Brents, Brooking, Bruce, W. O. Butler, Calhoun, Catlett, Cogswell, Cooper, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Jackman, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'El-

roy, M'Millan, M'Cracken, Miller, Moore, Munford, Noland, O'Bannon, Patterson, Payne, Pearcy, Pendleton, Pope, Sandford, Selby, Slack, Smith, Speed, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, White, Wickliffe, Wiley, Witherspoon, Worthington, Yancey, Yantis and Younger—78.

*Ordered*, That the said bill be recommitted to a select committee of messrs. Wickliffe, Smith, Fletcher, M'Connell, Slack, Younger, Moore, Cravens, Speed and W. O. Butler.

The following bills from the senate were severally read a second time, viz:

1. An act to remove the seat of justice of Owen county; 2. an act to prevent any further subscription on the part of the state for bank stock; 3. an act to amend the act reserving certain property from execution; and 4. an act to exempt certain persons from working on highways.

The first was committed to the committee of propositions and grievances; and the second, third and fourth, (the fourth being amended) were severally ordered to be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the third and fourth bills being dispensed with,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Cockerill inform the senate thereof, and request their concurrence in the amendments proposed to the fourth bill.

The following bills were severally read a second time, viz: 1. A bill for the benefit of Samuel Simpson; 2. a bill to amend an act entitled, an act establishing the county of Perry; 3. A bill for the benefit of Polly Simpson and her children; 4. a bill authorising an appropriation of money to the president and directors of the Louisville Hospital; 5. a bill to establish a State Lunatic Hospital; 6. a bill for the benent of the widow and heirs of Turner Morehead, deceased; 7. a bill to amend an act to regulate taverns and restrain tippling houses, approved January 15, 1820; 8. a bill to authorise sheriffs to sell real estate by virtue of executions issued upon a judgment of a justice of the peace; 9. a bill to appropriate one acre of the public ground in the town of Henderson, for the purpose of erecting thereon a Presbyterian Church; 10. a bill to amend an act appropriating the vacant lands of this commonwealth, approved Februa-

ry 14, 1820; 11. a bill to authorise the establishment of a branch of the Bank of the Commonwealth in the 13th judicial district; 12. a bill for the relief of Nancy Garth; 13. a bill to amend the laws regulating attachments; and 14. a bill for disposing of the land east of the Tennessee river and south of Walker's line, and north of latitude 36° 30′

The first was committed to a select committee of messrs. Howard, Litton and Craig; the seventh to a select committee of messrs. Brooking, Cockerill, Worthington and Crawford; and the 14th to a select committee of messrs. Slaughter, Love, Logan, M'Connell, Wickliffe and Cosby; the 2d, 3d, 6th, 8th, 11th, 12th and 13th, were severally ordered to be engrossed and read a third time, the 8th and 11th on to-morrow; the 4th and fifth were laid on the table; the 9th was postponed until the 1st day of June next; and the question being taken on engrossing the tenth bill and reading it a third time, it passed in the negative and so the said bill was rejected.

And thereupon the rule of the house, constitutional provision and third reading of the 2d, 3d, 6th, 12th and 13th bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Love carry the said bills to the senate and request their concurrence.

Mr. Payne from the committee to whom was referred, so much of the governor's message as relates to education and the Transylvania University, made the following report:

THE committee to whom was referred the communications from the legislatures of the states of Maryland and New-Hampshire, ask leave to report:

That the communications submitted to them embrace reports and resolutions thereupon, adopted by the legislatures of those states, and the objects of which are to direct the attention of congress and the legislatures of the several states of the Union, to the national lands, as a source from which appropriations for the purposes of education may with justice be claimed by those states for which no such appropriations have yet been made.

Your committee, highly sensible of the importance of the fact, that the most effectual means of achieving, or perpetuating the liberties of any country, is to enlighten the minds of its citizens, by a system of education adapted to the means of the most extensive class of its population; and alive to any just means within their power for the advancement of

this great object, not only within their own state, but alike to all the members of the great political family of which they are a part, and for whose common interests they are thus united, have, with much interest, examined the facts stated and the arguments used in said reports, and do not hesitate to concur in the opinions therein expressed, that the national lands are strictly a national fund, and in just proportions the property of all the states of the Union: and that, from the extent and nature of the fund, appropriations may with great propriety be extended to all the states of the Union.

It is deemed unnecessary, in a report of this kind, to enter at large into all the arguments that might be used to establish the opinion above expressed. A few of the facts which have presented themselves in the investigation of this subject, are submitted.

It is ascertained, that all the states and territories whose waters fall into the Mississippi, have been amply provided for by the laws of congress relating to the survey and sale of the public lands, except the state of Kentucky.

Why those appropriations should have stopped short of Kentucky, your committee are not able to see; especially, when they take into consideration its situation in relation to the other states of the Union, the contest it has maintained in establishing itself, protecting at the same time the western borders of the old states, and extending the more northern and western settlements.

Kentucky long stood alone in a forest of almost boundless extent, separated from her parent settlements by extensive ranges of mountains and forests, fit receptacles for her savage enemies, and by which she was cut off from the succor, and almost from the knowledge of her friends; yet maintaining her stand, and at the same time forming a barrier by which the more eastern states were protected from the common enemy, she has not only established herself, but has also gone forward to the establishment and support of those states and territories which now form the great national domain, which is the subject of this report.

Notwithstanding many arguments might be used, which would go to prove that Kentucky has claims to appropriations of those Lands, without extending the system to all the other states, yet your committee believe that such arguments are not necessary, and that a few facts here submitted, will prove that those appropriations may be made general, without materially affecting the national revenue.

Relying upon the apparent correctness of the able document before the committee, received from the state of Maryland, it appears that the total amount of literary appropriations made to the new states and territories, will amount to 14,576,569 acres: That the additional amount required to extend the same system to those states, for which no such appropriations have yet been made, would be 9,870,760 acres: That the state of Kentucky, as her part of such appropriation, would be entitled to 1,066,665 acres: And estimating the whole quantity of unsold lands yet owned by the United States, at 400,000,000 acres, that the additional amount required to extend the same scale of appropriation to all the states which have not received any, would not amount to 2 ½ per centum upon the landed fund as above.

Relying, therefore, upon the foregoing considerations as sufficient for their purpose, and believing that the magnanimity of their sister states in the west, will produce an unanimity in the Congress of the United States upon this subject, your committee are prepared to close this report, and beg leave to recommend the adoption of the following resolutions:

*Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky*, That each of the United States has an equal right, in its just proportion, to participate in the benefit of the public lands, the common property of the Union.

*Resolved*, That the executive of this state be requested, as soon as practicable, to transmit copies of the foregoing report and resolution to our senators and representatives in congress, with a request that they will lay the same before their respective houses, and use their endeavors to procure the passage of a law to appropriate to the use of the state of Kentucky, for the purposes of education, such a part of the public lands of the United States as may be equitable and just.

All which is respectfully submitted.

*Ordered*, That the said report be laid on the table, and that the public printers forthwith print 150 copies thereof, for the use of the members of this house.

And then the house adjourned.

## SATURDAY, NOVEMBER 17, 1821.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of sundry citizens of Warren county, praying that a part of said county be added to Barren county, *be rejected*.

*Resolved*, That the petition of sundry citizens of Nicholas county, praying that a part of said county be added to Harrison county, *be rejected*.

*Resolved*, That the petition of sundry citizens of the counties of Jefferson, Shelby and Henry, praying for the formation of a new county out of a part of each of said counties, *is reasonable*.

Which being twice read, the first and second resolutions were concurred in, and the third laid on the table.

Mr. Cowan presented the petition of Elizabeth Davinport, praying a remission of the tax improperly assessed on a billiard table, for the year 1820.

Which petition was received, read and referred to the committee for courts of justice.

Mr. Howard from the select committee to whom was referred, a bill for the benefit of Samuel Simpson, reported the same with amendments, which being twice read, were concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time on Monday next.

Mr. Logan presented the memorial and petition of the President and Directors of the Frankfort and Shelbyville Turnpike Road Company, praying that a law may pass authorising a subscription for stock on the part of the state in said company, and that the stockholders may be at liberty to surrender their stock.

Which petition was received, read and referred to the committee of propositions and grievances.

A message from the Governor by Mr. Anderson:

*Mr. Speaker*,

I am directed by the governor to inform this house, that he did on this day, approve and sign an enrolled bill which originated in this house entitled, an act concerning the county court of Nelson.

And then he withdrew.

*Ordered*, That Mr. Crawford inform the senate thereof.

Leave was given to bring in the following bills:

On the motion of MR. Wickliffe—1. A bill for the benefit of R. D. N. Morgan.

And on the motion of MR. Cosby—2. A bill for the improvement of the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling fork, to the summit of Muldrough's hill.

Messrs. Wickliffe, A. Butler, Cravens and Allen, were appointed a committee to prepare and bring in the first; and messrs. Cosby, Pope, Speed, Wickliffe, Payne, Brents, Slaughter and Brooking, the second.

The following bills were reported from the several committees appointed to prepare and bring in the same:

By MR. Howard—1. A bill for the benefit of the heirs of David C. Irvine, deceased.

By MR. A. Butler—2. A bill for the benefit of Elijah Hise.

And by MR. Yantis—3. a bill to change the annual meeting of the legislature.

The first and second bills were severally received and read the first time and ordered to be read a second time; and the third was laid on the table.

And thereupon the rule of the house, constitutional provision and second reading of the said first and second bills being dispensed with, and the second being amended,

*Ordered*, That the said bills be engrossed and read a third time, the second on Monday next.

And the rule of the house, constitutional provision and the third reading of the first bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Howard carry the said bill to the senate and request their concurrence.

The following bills were severally read the second time, to-wit: 1, A bill appointing trustees for the town of Boonsborough, and for other purposes; 2. a bill authorising the Register to perform certain duties; 3. a bill to regulate appeals from justices of the peace to county courts; 4. a bill to amend the several acts concerning the town of Louisville; 5. a bill to regulate and establish the bounds of the town of Madisonville; and 6. a bill to establish the line lately run between the states of Kentucky and Tennessee.

The 1st, 3d, 4th and 6th bills were severally ordered to be engrossed and read a third time, the third on Monday next; the second was committed to a select committee of messrs. Yantis, Smith, Speed and Logan; and the 5th to a

select committee of messrs. Cogswell, Gordon and Fletcher.

And thereupon the rule of the house, constitutional provision and third reading of the first, fourth and sixth bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Howard carry the said bills to the senate and request their concurrence.

A message from the senate by Mr. Dawson:

*Mr. Speaker*,

The senate have passed a bill entitled, an act for the benefit of Hardy Witherspoon, in which they request the concurrence of this house.

And then he withdrew.

A bill to repeal an act entitled, an act to appropriate fines and forfeitures for the purpose of promoting education, approved February 14th, 1820, was read the second time as follows, to wit:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an act entitled, an act to appropriate fines and forfeitures for the purpose of promoting education, approved February 14th, 1820, shall be, and the same is hereby, repealed.

§ 2. *Be it further enacted*, That all acts or parts of acts, which appropriates any fines or forfeitures in this commonwealth, for the promotion of education, shall be, and the same is hereby, repealed.

§ 3. *Be it further enacted*, That the law in force prior to said 14th of February, 1820, appropriating fines and forfeitures, shall be, and the same is hereby, revived.

And the question being taken on engrossing the said bill and reading it a third time, it was decided in the negative, and so the said bill was rejected.

The yeas and nays being required thereon by messrs. M. Hardin and Noland, were as follows, viz:

Yeas—Messrs. Cogswell, Cooper, Craig, Cravens, Crawford, Dejarnett, Duncan, Eaves, Green, M. Hardin, Hughes, Inglish, Litton, M'Clanahan, M'Cracken, Miller, Munford, Noland, O'Bannon, Patterson, Pendleton, Sandford, Stone of Wayne, Talbot, J. Taylor and Wiley—26.

Nays—Messrs. Allen, J. S. Anderson, Barnet, Brents, Brooking, Bruce, Calhoun, Catlett, Cockerill, Cosby, Cowan, Davis, Fletcher, Gordon, Griffith, J. G. Hardin, Herald, Howard, Kincheloe, King, Lecompte, Lockett, Love, Lynch,

J. Mason, May, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, Moore, Mullens, Murray, Payne, Pope, Selby, Slack, Slaughter, Smith, Speed, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Yancey and Yantis—48.

And then the house adjourned.

## MONDAY, NOVEMBER 19, 1821.

Mr. Joel Owsley, a member returned to serve in this house from the county of Cumberland and part of Monroe, appeared, produced a certificate of his election, and of his having taken the oaths required by the constitution of the United States and the constitution and laws of this state, and took his seat.

A message from the senate by Mr. Lee, their secretary:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act to authorise the editors of the Republican Orbit, a newspaper printed in Cynthiana, to insert certain advertisements; an act to amend the several acts concerning the town of Louisville; an act for the benefit of the heirs of David C. Irvine, deceased; and an act to establish election precincts in certain counties, with amendments to the two latter bills; and they have passed a bill entitled, an act establishing a seminary in Rockcastle county—in which amendments and bill they request the concurrence of this house.

And then he withdrew.

Mr. Lynch presented the petition of Henry Garrett, praying a divorce from his wife Tabitha, late Tabitha Hendricks.

And Mr. Selby presented the petition of sundry citizens of the counties of Adair, Green, Barren and Cumberland, praying for the formation of a new county out of a part of each of said counties.

Which petitions were severally received, read and referred; the first to the committee of religion; and the latter to the committee of propositions and grievances.

Mr. Stone of Wayne, from the committee appointed for that purpose, reported a bill giving further time to the settlers on the lands acquired by the treaty of Tellico, to return plats and certificates of survey.

Which bill was received and read the first time and ordered to be read a second time.

On the motion of Mr. Brents,

*Ordered*, That leave be given to bring in a bill for the benefit of the sheriff of Green county; and that messrs. Brents, Green and Pope be appointed a committee to prepare and bring in the same.

The following bills were severally read a second time, viz: 1. A bill for the benefit of the heirs of Stephen Rossell, deceased; 2. a bill for the benefit of Robert Poague; 3. a bill providing for surveying the Treasury Warrant Claims west of the Tennessee river; 4. a bill to add a part of Logan county to the county of Todd; 5. a bill to regulate appeals from justices of the peace in this commonwealth; 6. a bill making compensation for the surveyor appointed on the part of this state, for running and marking the boundary line between the states of Kentucky and Tennessee; 8. a bill for the benefit of Jesse Walker; and 9. a bill for the benefit of Jesse Walker and others.

The 1st, 4th, 5th, 6th, 7th, 8th and 9th, were severally ordered to be engrossed and read a third time; and the 2d and 3d, were ordered to be laid on the table.

And thereupon the rule of the house, constitutional provision and third reading of the first bill being dispensed with and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. Bradford carry the said bill to the senate and request their concurrence.

The following bills from the senate were severally read the first time, viz: 1. An act to change the time of electing members to Congress; 2. an act for the benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, dec.; 3. an act to amend the act altering the mode of taking in lists of taxable property; 4. an act to regulate trials of the right of property in the country; 5. an act for the benefit of the sheriff of Caldwell county; 6. an act authorising the keeper of the penitentiary to build a smoke-house; 7. an act for the benefit of Polly Parker and children; 8. an act to amend an act entitled, an act to amend an act directing certain surveyors to transcribe certain entry books; 9. an act to prevent horse racing on the public highways; 10. an act to legalize the proceedings of the Floyd county court; 11. an act for the benefit of Hardy Witherspoon; 12. an act to amend an act establishing a seminary in Rockcastle county; and 13. an act to revive the law providing for the appointment of commonwealth's attornies.

The 1st was laid on the table, and the 2d, 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th and 13th, were severally ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 2d, 3d and 11th bills being dispensed with, the 2d and 11th were ordered to be read a third time; and the third was committed to a select committee of messrs. Yantis, Howard, Wickliffe, King, Yancey Cockerill and Smith.

And thereupon the rule of the house, constitutional provision and third reading of the 2d and 11th bills being dispensed with,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Warfield inform the senate thereof.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to revive the law providing for the appointment of commonwealth's attornies—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Davidson:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act for the benefit of Solomon Griffin and the heirs of Catharine Smith, with an amendment—in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Anderson:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act authorising Richard L. Walker and Nathan Harris to erect a mill dam across Rough creek in Ohio county.

And then he withdrew.

A message from the senate by Mr. Dawson:

*Mr. Speaker*,

The senate have passed bills which originated in this house of the following titles: An act for the benefit of Polly Simpson and her children; and an act for the benefit of the widow and heirs of Turner Morehead, deceased, with an amendment to the latter bill, in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Crutcher:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act for the benefit of the sheriff of Monroe county.

And then he withdrew.

A bill to alter the mode of taking in lists of taxable property was taken up.

It was then moved and seconded, to postpone the further consideration of said bill until the first day of March next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. J. G. Hardin and Noland, were as follows, viz:

Yeas—Mr. Speaker, messrs. J. S. Anderson, R. C. Anderson, Barnett, A. Butler, W. O. Butler, Cowan, Crawford, Davis, Eaves, M. Hardin, Hughes, Lockett, Love, Miller, Moore, Murray, Owsley, Payne, Pendleton, Pope, Smith, Speed, C. H. Taylor, Todd, White, Wickliffe, Witherspoon and Yantis—29.

Nays—Messrs. Brooking, Bruce, Calhoun, Catlett, Cockerill, Cogswell, Cooper, Craig, Cravens, Dejarnett, Desha, Duncan, Fletcher, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Inglish, Johnson, Kincheloe, Litton, Lynch, J. Mason, May, M'Clanahan, S. M'Elroy, M'Millan, M'Cracken, Mullens, Munford, Noland, O'Bannon, Sandford, Selby, Slack, Slaughter, Stone of Wayne, Talbot, J. Taylor, Thompson, Warfield, Wiley and Yancey—45.

The said bill having been amended, was ordered to be read a third time to-morrow.

A bill from the senate entitled, an act to prevent any further subscription on the part of the state for bank stock, was read a third time.

*Resolved,* That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered,* That Mr. Love inform the senate thereof.

A message from the senate by Mr. Pope:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act to amend the several acts concerning the town of Louisville; and an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson, with an amendment to the latter bill, in which they request the concurrence of this house.

And then he withdrew.

Engrossed bills of the following titles: 1. An act to authorise sheriffs to sell real estate by virtue of executions issued upon a judgment of a justice of the peace; 2. an act for the benefit of Samuel Simpson; 3. an act to regulate appeals from justices of the peace to the county courts; 4. an act for the benefit of Elijah Hise,

Were severally read a third time.

*Resolved*, That the said bills do pass, and that the titles of the 1st and 3d be as aforesaid, and that those of the 2d and 4th be amended by adding thereto the words '*and others*.'

*Ordered*, That Mr. Warfield carry the said bills to the senate and request their concurrence.

The yeas and nays being required on the passage of the first bill by messrs. Slaughter and Litton, were as follows, viz:

Yeas—Mr. Speaker, J. S. Anderson, Barnett, Bruce, W. O. Butler, Cogswell, Cooper, Craig, Crawford, Desha, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Hughes, Inglish, Johnson, Lecompte, Love, Lynch, M'Clanahan, S. M'Elroy, M'Millan, M'Cracken, Miller, Murray, Owsley, O'Bannon, Patterson, Payne, Pope, Selby, Slack, Smith, Speed, Stone of Wayne, Talbot, J. Taylor, C. H. Taylor, Thompson, Warfield, White, Wickliffe, Witherspoon and Yancey—47.

Nays—Messrs. R. C. Anderson, Brents, Brooking, A. Butler, Calhoun, Catlett, Cockerill, Cowan, Cravens, Davis, Dejarnett, Duncan, Eaves, Fletcher, Green, King, Litton, Lockett, J. Mason, May, M'Connell, Moore, Mullens, Munford, Noland, Pendleton, Sandford, Slaughter, Todd, Wiley and Yantis—31.

The house took up the amendments proposed by the senate to bills from this house of the following titles: An act for the benefit of the heirs of David C. Irvine, deceased; an act to establish election precincts in certain counties; an act for the benefit of Solomon Griffin and the heirs of Catharine Smith; an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson; and an act for the benefit of the widow and heirs of Turner Morehead, dec.

Which being severally twice read, were concurred in.

*Ordered*, That Mr. Warfield inform the senate thereof.

*Ordered*, That a bill to amend the law regulating the action of detinue, be placed in the orders of the day; that a bill authorising an appropriation of money to the President

and Directors of the Louisville Hospital, be engrossed and read a third time to-morrow; and that a bill to repeal in part an act entitled, an act for establishing and laying off a town at the Iron Banks, approved Dec. 27th, 1820, be committed to a select committee of Messrs. Speed, R. C. Anderson, Wickliffe, Pope and Yantis.

A message from the senate by Mr. Lee their secretary:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act to amend an act entitled. an act establishing the county of Perry; an act to amend the law regulating attachments; an act appointing trustees for the town of Boonsborough, and for other purposes; an act to establish the line lately run between the states of Tennessee and Kentucky; an act for the benefit of Ansel Wilhoit; an act authorising and directing the county court of Bourbon to open and keep in repair a certain road; an act for the benefit of the heirs of Roger Robbins, dec.; and an act to authorise the insertion of certain advertisements in the Kentucky Patriot and Springfield Literary Register, with an amendment to the latter bill: And they have passed bills of the following titles: An act authorising the keepers of turnpike gates to take up strays; an act for the benefit of the heirs of Patrick H. Rice; and an act for the benefit of Samuel Lewis—in which amendment and bills they request the concurrence of this house.

And then he withdrew.

Leave was given to bring in the following bills:

On the motion of MR. Smith—1. A bill for the benefit of Henry S. Langford, infant heir of Stephen Langford, dec.

On the motion of MR. Fletcher—2. A bill to regulate the Bath seminary, in Bath county.

And on the motion of MR. King—3. A bill for the relief of the clerk of the Cumberland circuit and county courts.

Messrs. Smith, Love and Barnett were appointed a committee to prepare and bring in the first; messrs. Fletcher, Brents and Craig the second; and messrs. King, Owsley and Yancey the third.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By MR. Wickliffe—1. A bill for the benefit of R. D. N. Morgan.

And by MR. Fletcher—2. A bill to regulate the Bath seminary in Bath county.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the first bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Wickliffe carry the said bill to the senate and request their concurrence.

On motion,

*Ordered*, That the select committee to whom was referred, the petition of the President and Directors of the Shelbyville and Louisville Turnpike Road ompanies, be discharged from a further consideration thereof, and that the same be referred to the committee of propositions and grievances.

Mr. Cogswell from the select committee to whom was referred, a bill to regulate and establish the bounds of the town of Madisonville, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended be engrossed and read a third time to-morrow.

And then the house adjourned.

## TUESDAY, NOVEMBER 20, 1821.

Mr. W. O. Butler presented the petition of sundry citizens of the Eagle creek election precinct in Gallatin county, praying that a law may pass to change the place of holding elections in said precinct.

And Mr. Pearcy presented the petition of Elizabeth Castarphen, praying a divorce from her husband, Robert Castarphen, and a restoration of her maiden name of Elizabeth Perkins.

Which petitions were severally received, read and referred; the first to the committee of propositions and grievances; and the second to the committee of religion.

Mr. Luckett from the committee of claims, made the following report, viz:

The committee of claims have, according to order, had under consideration the petition of Benjamin Bridges, Jr. praying that a compensation may be made to him for his services and expences in apprehending and bringing to justice William Shrodes, Andrew Shrodes and Angus Morrison, charged with the murder of William M'Ferrin of Jef-

ferson county; and have come to the following resolution thereupon, to wit:

*Resolved*, That the said petition, *is reasonable*; and that the sum of ought to be appropriated for the same.

Which being twice read, was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolution.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of Rebecca Walker, representing that her husband, William Walker, in the year 1816, was charged with felony and fled to another state with an intention of never returning, and praying for a divorce, *be rejected*.

*Resolved*, That the petition of Henry Garrett, representing that his wife Tabitha has abused him in an inhuman manner, has abandoned him and refuses to return, and praying for a divorce, *be rejected*.

*Resolved*, That the petition of Nancy M'Hatton, representing that her husband, John M'Hatton, has abandoned her about fourteen years, and praying for a divorce, *is reasonable*.

They have also had under consideration the petition of John Hornback, which was recommitted to them; have examined the additional testimony, and come to the following resolution thereupon, to wit:

*Resolved*, That the said petition *is reasonable*.

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the third and fourth resolutions.

Mr. Yantis from the select committee to whom was referred, a bill authorising the Register to perform certain duties, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time to morrow.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act for the benefit of Polly Simpson and her children; an act authorising Richard L. Walker and Nathan Harris to erect a mill dam across Rough creek in Ohio county; an act to authorise the editors of the

Republican Orbit, a newspaper printed in Cynthiana, to insert certain advertisements; an act to amend the several acts concerning the town of Louisville; and an act for the benefit of the sheriff of Monroe county.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

The following bills were reported from the several committees appointed to prepare and bring in the same:

By MR. Payne from the committee of religion—1. A bill to amend an act concerning a house of public worship in the town of Frankfort.

By MR. King—2. A bill for the benefit of the clerk of the circuit and county courts of Cumberland.

By MR. Brents—3. A bill for the relief of the sheriff of Green county.

And by MR. J. G. Hardin—4. A bill for the relief of the widow and heirs of George Chism, dec.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the second and third bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Brents carry the said bills to the senate and request their concurrence.

MR. Love from the select committee to whom was referred, a bill from the senate entitled, an act to increase and regulate the judicial districts, reported the same with amendments.

It was then moved and seconded to postpone the further consideration of said bill and amendments until the 1st day of March next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Yancey and Cockerill, were as follows, viz:

Yeas—MESSRS. Catlett, Cockerill, Dejarnett, Gordon, Green, J. G. Hardin, Inglish, Lecompte, Lynch, J. Mason, May, Munford, Noland, Pendleton, Talbott, J. Taylor, C. H. Taylor, Wiley and Yancey—19.

Nays—MR. Speaker, messrs. Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Cogswell, Cowan,

Craig, Cravens, Crawford, Davis, Desha, Duncan, Eaves, Fletcher, Griffith, M. Hardin, Herald, Howard, Johnson, King, Litton, Lockett, Logan, Love, Luckett, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Owsley, O'Bannon, Patterson, Payne, Pearcy, Pope, Selby, Slack, Slaughter, Smith, Speed, Stone of Madison B. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Witherspoon, Yantis and Younger—68.

The said bill was then recommitted to a select committee of messrs. Payne, Murray, M'Millan, Bruce, Yancey, Catlett, Shannon, Dejarnett, M. Hardin, Duncan, Cravens and Wiley.

Mr. Todd moved the following resolution, viz:

*Resolved*, That the committee to whom is referred, the bill to increase and regulate the judicial districts, be instructed to arrange the state into fifteen judicial districts.

And the question being taken on adopting the said resolution, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Catlett and C. H. Taylor, were as follows, viz:

Yeas—mr. Speaker, messrs. Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, A. Butler, W. O. Butler, Calhoun, Cowan, Craig, Cravens, Crawford, Davis, Fletcher, Griffith, Howard, Johnson, Litton, Lockett, Logan, Love, Luckett, H. M'Elroy, Moore, Murray, Owsley, O'Bannon, Pope, Selby, Slaughter, Smith, Speed, Thompson, Todd, Warfield, White, Wickliffe, Witherspoon and Yantis—42.

Nays—messrs. Bruce, Catlett, Cockerill, Cogswell, Dejarnett, Desha, Duncan, Eaves, Gordon, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, King, Lecompte, Lynch, J. Mason, May, M'Connell S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Patterson, Payne, Pearcy, Pendleton, Sandford, Slack, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Wiley, Yancey and Younger—41.

mr. Yantis from the select committee to whom was referred, a bill to amend the penal laws, reported the same with an amendment.

The original bill proposed to be amended by the committee, was then read as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That every person who shall be convicted of horse stealing, (the offence having been committed after the day of next) and who shall have been confied in the Penitentiary of this or any of the Uni-

ted States for a similar offence, shall suffer death by hanging, any law to the contrary notwithstanding.

The amendment proposed was then read as follows, viz:

Strike out the whole of the original bill after the enacting clause, and in lieu thereof insert the following, viz:

That the second section of the act entitled "an act to amend the penal laws," approved February eleventh one thousand eight hundred and twenty, be, and the same is hereby repealed: And the laws affixing the punishment for the crime of simple larceny of the value of four dollars and under, that were in force in this commonwealth prior to the passage of the aforesaid act, and were repealed by its provisions, are hereby re-enacted and declared in full force. Nevertheless, when any person shall have been guilty of the offence of simple larceny, since the eleventh day of February one thousand eight hundred and twenty, and prior to the passage of this law, of the value of four dollars or under, he, she, or they, shall be tried according to the provisions of said recited act, and if convicted by any court of record having jurisdiction thereof, shall be punished accordingly.

§ 2. Whereas, doubts have arisen as to what is the punishment now imposed by law upon the offence of man-slaughter: Wherefore, *Be it enacted*, whenever any person or persons shall hereafter be duly convicted of the crime of voluntary man-slaughter by any court of record in this commonwealth, having jurisdiction of the same, he, she, or they, shall undergo a confinement in the jail and penitentiary house of this commonwealth, for any period of time not less than two years, nor more than ten years. Nothing in this act shall be so construed as to affect, change or alter the laws now in force in relation to any offence of voluntary man-slaughter heretofore committed, but the same shall be tried and punished by the laws now in force, as though this act had not passed

§ 3. *Be it enacted*, That whenever any person or persons shall be convicted as principal or accessary of the crime of having stolen any slave from the possession of the master or owner, or from the possession of any other person whatever, he, she or they shall undergo a confinement in the jail and penitentiary house of this commonwealth for a period of time, not less than two years, nor more than six years.

§ 4. *Be it further enacted*, That if any slave shall have runaway or eloped from his or her master or possessor, he or she shall be considered to be within the possession of such master or possessor, within the meaning and intent of the third section of this act, any law to the contrary notwithstanding.

§ 5. *Be it further enacted*, That if any person who may have been confined in the jail and penitentiary house, for any crime of horse stealing, and shall again be convicted of a similar offence,

he shall undergo a similar confinement of not less than six, nor more than ten years. This act shall only apply to offences committed from and after its passage.

A division of the question was called for, and the question put on striking out the original bill after the enacting clause, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. M'Millan and C. H. Taylor, were as follows, viz:

Yeas—MR. Speaker, messrs. Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, A. Butler, Colhoun, Cockerill, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gordon, Griffith, J. G. Hardin, Herald, Inglish, Litton, Lecompte, Lockett, Logan, Luckett, Lynch, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, Murray, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Pope, Sandford, Selby, Slack, Slaughter, Smith, Speed, B. Taylor, Thompson, Warfield, White, Wickliffe, Wiley, Witherspoon, Yancey, Yantis and Younger—66.

Nays—messrs. Catlett, Cogswell, Green, M. Hardin, Howard, Johnson, M'Millan, O'Bannon, Stone of Madison, Talbott, J. Taylor and C. H. Taylor—12.

The said bill and amendment was then laid on the table.

*Ordered*, That the public printers forthwith print 150 copies of said amendment, for the use of the members of this house.

MR. Cogswell from the select committee to whom was referred, a bill to amend an act entitled, an act to regulate taverns and restrain tippling houses, reported the same with an amendment.

Which being twice read was disagreed to.

And the question being taken on engrossing the said bill and reading it a third time, it was decided in the negative; and so the said bill was rejected.

The amendments proposed by the senate to a bill from this house entitled, an act to authorise the insertion of certain advertisements in the Kentucky Patriot and Springfield Literary Register, were twice read and concurred in.

*Ordered*, That Mr. Pope inform the senate thereof.

A message from the Governor by MR. Anderson:

*Mr. Speaker.*

I am directed to inform this house that the governor did on this day, approve and sign enrolled bills which originated in this house, of the following titles:

An act for the benefit of the Sheriff of Monroe county.

An act to authorise the Editors of the Republican Orbit, a newspaper printed in Cynthiana to insert certain advertisements.

An act for the benefit of Polly Simpson and her children.

An act to amend the several acts concerning the town of Louisville.

An act authorising Richard L. Walker and Nathan Harris to erect a mill dam across Rough creek in Ohio county.

And I am also directed to lay before this house a message in writing.

And then he withdrew.

Engrossed bills of the following titles: 1. An act to add a part of Logan county to the county of Todd; 2. an act to regulate appeals from justices of the peace of this commonwealth; 3. an act to encourage a publication of a digest of the statutes; 4. an act to alter the mode of taking in lists of taxable property; 5. an act for the benefit of Jesse Walker; 6. an act for the benefit of Jesse Walker and others; and 7. an act to regulate and establish the bounds of the town of Madisonville.

Were severally read a third time and the blanks in the 3d, 4th, 5th, and 6th, filled.

*Resolved*, That the 1st, 2d, 4th, 5th, 6th and 7th bills do pass, and that the titles of the 1st, 2d, 4th, 5th and 6th be as aforesaid, and that of the seventh be amended to read "an act concerning the towns of Madisonville and North Middleton.

*Ordered*, That Mr. Anderson carry the said bill to the senate and request their concurrence.

*Ordered*, That the third bill be laid on the table.

An engrossed bill entitled an act authorising an appropriation of money to the President and Directors of the Louisville Hospital, was read a third time.

It was then moved and seconded to fill the blank in said bill with $15,000 as the amount of appropriation.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. English and Cockerill were as follows, viz:

Yeas—Mr. Speaker, R. C. Anderson, Brents, Bruce, A. Butler, W. O. Butler, Calhoun, Cowan, Craig, Davis, Fletcher, M. Hardin, Johnson, King, Lockett, Logan, Luckett, M'Connell, Moore, Pope, Sandford, Speed, Todd, Warfield, White and Witherspoon—26.

Nays—messrs. Allen, Barnett, Bradford, Brooking, Catlett, Cockerill, Cogswell, Crawford, Dejarnett, Desha, Duncan, Eaves, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Hughes, Inglish, Kincheloe, Litton, Lecompte, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Murray, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Selby, Slack, Smith, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Wickliffe, Wiley, Yancey, Yantis and Younger—54.

It was then moved and seconded to fill the said blank with $12,000.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Litton and Cockerill, were as follows, viz:

Yeas—mr. Speaker, messrs. R. C. Anderson, Bradford, Brents, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Cowan, Craig, Crawford, Davis, Desha, Fletcher, M. Hardin, Hughes, Johnson, Kincheloe, King, Lockett, Logan, Luckett, M'Connell, M'Cracken, Moore, Murray, Pearcy, Pope, Sandford, Slack, Speed, Talbot, Todd, Warfield, White, Wickliffe, Witherspoon and Younger—39.

Nays—Messrs. Allen, Barnet, Brooking, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Inglish, Litton, Lecompte, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Mullens, Munford, Noland, Owsley, O'Bannon, Patterson, Payne, Selby, Stone of Madison, Stone of Wayne, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Wiley, Yancey and Yantis—42.

It was then moved and seconded to fill the said blank with $10,000.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Litton and Cockerill, were as follows, viz:

Yeas—mr. Speaker, messrs. Allen, R. C. Anderson, Barnett, Brents, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Cogswell, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Griffith, M. Hardin, Howard, Hughes, Johnson, Kincheloe, King, Lockett, Logan, Luckett, May, M'Connell, M'Millan, M'Cracken, Miller, Moore, Murray, Payne, Pearcy, Pope, Sandford, Slack, Smith, Speed, Talbot, B.

Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon and Younger—51.

Nays—Messrs. Brooking, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gordon, Green, J. G. Hardin, Herald, Inglish, Litton, Lecompte, Lynch, J. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, Munford, Noland, Owsley, Patterson, Selby, Stone of Madison, Stone of Wayne, J. Taylor, Thompson, Yancey and Yantis—28.

The question was then taken on the passage of said bill, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Cockerill and Litton, were as follows, to wit:

Yeas—Mr. Speaker, messrs. Allen, R. C. Anderson, Barnett, Brents, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cogswell, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Griffith, M. Hardin, Howard, Hughes, Jackman, Johnson, Kincheloe, King, Lockett, Logan, Love, Luckett, May, M'Connell, M'Millan, M'Cracken, Miller, Moore, Mullens, Murray, Payne, Pearcy, Pope, Sandford, Slack, Slaughter, Smith, Speed, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Worthington and Younger—56.

Nays—Messrs. J. S. Anderson, Brooking, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gordon, Green, J. G. Hardin, Herald, Inglish, Litton, Lecompte, Lynch, J. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, Munford, Noland, Owsley, O'Bannon, Patterson, Selby, Stone of Madison, Stone of Wayne, J. Taylor, Thompson, Yancey and Yantis—31.

*Ordered*, That the title of said bill be amended to read, "an act authorising an appropriation of money to the President and Managers of the Louisville Hospital," and that Mr. Anderson carry the said bill to the senate and request their concurrence.

And then the house adjourned,

## WEDNESDAY, NOVEMBER 21, 1821.

On motion,

*Ordered*. That Mr. Buford have leave of absence from the service of this house until Monday next, and Mr. Goode for ten days.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act to alter the mode of admitting persons to bail under writs of habeas corpus; an act for the benefit of Solomon Griffin and the heirs of Catharine Smith; an act to amend the law regulating attachments; an act for the benefit of the heirs of Roger Robbins, dec.; an act for the benefit of the heirs of David C. Irvine, dec.: an act for the benefit of the heirs of Turner Morehead and Lawrence Owen.

And had found the same truly enrolled.

Whereupon, the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. Johnson presented the petition of sundry citizens of Campbell and Boone counties, praying for the formation of a new judicial district out of said counties.

And Mr. Speed presented the memorial of the trustees of the town of Columbus on the Mississippi river, detailing their progress in discharging the duties assigned them by the act under which they were appointed, and suggesting sundry alterations and amendments to said act.

Which were severally received, read and referred; the former to the committee to whom was referred, a bill to increase and regulate the judicial districts; and the latter to the committee to whom was referred, a bill to repeal in part an act entitled, an act for establishing and laying off a town at the Iron Banks, approved Dec. 27, 1820.

The house then, according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, Mr. Yantis in the chair, which being resumed by Mr. Speaker, Mr. Yantis reported, that the committee had, according to order, had under consideration sundry resolutions to them referred, and had gone through the same with sundry amendments, which he handed in at the clerk's table.

And then the house adjourned.

## THURSDAY, NOVEMBER 22, 1821.

Mr. Witherspoon presented the petition of a committee of the Lexington Medical Society, praying for an act of incorporation.

Mr. J. G. Hardin presented the petition of sundry citizens of Monroe county, praying for an appropriation of money for the purpose of opening a road, the way for which has been lately marked and viewed, from Danville in the direction of Murfreesborough, state of Tennessee.

Mr. Craig presented the petition of Samuel Howard, praying a divorce from his wife, Nancy Howard.

Mr. Witherspoon presented the petition of the administrators of the estate of William Allen, deceased, praying that a law may pass to authorise a sale of a part of the real estate of the decedant, for the purpose of discharging the debts due by said estate.

And Mr. Clark presented the petition of Polly Chambers, praying a divorce from her husband, William Chambers.

Which petitions were severally received, read and referred; the first to a select committee of messrs. Witherspoon, Owsley, Gaither, Slaughter and B. Mason; and the fourth to a select committee of messrs. Witherspoon, Davis, Shannon, Crawford and Bradford, giving said committees leave to report thereon by bills or otherwise; the second to the committee of claims; and the third and fifth to the committee of religion.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of sundry citizens of the counties of Barren, Green, Adair and Cumberland, praying for the formation of a new county out of a part of each of said counties, *is reasonable.*

*Resolved*, That the petition of sundry citizens of Monroe county, praying that a part of said county be added to the county of Allen, *be rejected.*

*Resolved*, That the petitions of the president and directors of the Louisville and Shelbyville, and the Frankfort and Shelbyville turnpike road companies, praying that a law may pass authorising a subscription for stock on the part of the state in said companies, *be rejected.*

Which being twice read (and the first resolution having been amended by striking out the words, *is reasonable*, and inserting in lieu thereof the words, *be rejected*,) the first and second resolutions were concurred in, and the third was laid on the table.

A bill from the senate entitled, an act authorising the keeper of the penitentiary to build a smokehouse, was read a second time, amended and ordered to be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with,

*Resolved*, That the said bill do pass as amended.

*Ordered*, That Mr. Worthington inform the senate thereof and request their concurrence in the said amendment.

Mr. Murray from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act appointing trustees for the town of Boonsborough, and for other purposes; an act to establish the line lately run between the states of Tennessee and Kentucky; an act for the benefit of Ansel Wilhoit; an act concerning the seminaries in the counties of Monroe, Perry, Jefferson and Simpson; an act authorising and directing the county court of Bourbon to open and keep in repair a certain road; an act authorising the insertion of advertisements in certain newspapers; an act for the benefit of the wife and children of Benjamin Herndon; an act to amend the act reserving certain property from execution; an act to prevent any further subscription on the part of the state for bank stock; an act for the benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, dec.; and an act for the benefit of Hardy Witherspoon.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That mr. Murray inform the senate thereof.

mr. M'Millan from the committee of propositions and grievances to whom was referred, a bill from the senate entitled, an act to remove the seat of justice of Owen county, reported the same without amendment, and the said bill being amended at the clerk's table,

*Ordered*, That the said bill as amended be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with,

*Resolved*, That the said bill do pass as amended.

*Ordered*, That mr. Todd inform the senate thereof, and request their concurrence in said amendment.

Mr. Smith from the select committee appointed for that purpose, reported a bill for raising the wages of the members of the general assembly for the first fifty days of each session and reducing it for the balance of the session, which was received and read the first time as follows:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of the legislature of this commonwealth shall hereafter receive dollars per day each, for the first fifty days of each session, and per day for the balance of the session, and no more, except the usual allowance for travelling and ferriage. This act shall commence and be in force from and after the first Monday in August in the year of 1822, any law to the contrary notwithstanding.

And the question being taken on reading the said bill a second time, it passed in the negative, and so the said bill was rejected.

The yeas and nays being required thereon by messrs. Speed and Craig, were as follows, viz:

Yeas—messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brents, Bruce, Calhoun, Catlett, Cockerill, Craig, Cravens, Crawford, Davis, Howard, Jackman, King, Lockett, Love, Lynch, J. Mason, M'Connell, Moore, Munford, Owsley, O'Bannon, Patterson, Rudd, Smith, Talbott, J. Taylor, Wickliffe, Witherspoon and Yantis—33.

Nays—Mr. Speaker, messrs. Allen, J. S. Anderson, Brooking, Clark, Cogswell, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Johnson, Kincheloe, Litton, Lecompte, Logan, Luckett, B. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Murray, Noland, Payne, Pearcy, Pendleton, Pope, Sandford, Selby, Shannon, Slack, Slaughter, Speed, Stone of Madison, Stone of Wayne, B. Taylor, C. H. Taylor, Thompson, Todd, Warfield, Wiley, Worthington, Yancey, and Younger—57.

Mr. B. Taylor from the select committee appointed for that purpose, reported a bill for the benefit of the heirs of Abraham Carter, deceased.

Which was received and read the first time and ordered to be read a second time.

Mr. Payne from the select committee to whom was referred, a bill from the senate entitled, an act to increase and regulate the judicial districts, and the amendment reported

by the select committee to whom said bill had been referred, reported the same without additional amendments.

The said amendment having been amended, was then concurred in.

The question was then taken on reading the said bill a third time as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Noland and Cockerill were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, A. Butler, Calhoun, Clarke, Cogswell, Craig, Crawford, Davis, Duncan, Fletcher, Griffith, M. Hardin, Howard, Hughes, Jackman, Johnson, King, Litton, Lecompte, Lockett, Logan, Love, Luckett, H. M'Elroy, Moore, Mullens, Murray, Owsley, O'Bannon, Pearcy, Pope, Rudd, Selby, Shannon, Slaughter, Smith, Speed, B. Taylor, Todd, Warfield, Wickliffe, Witherspoon, Worthington, Yantis and Younger—53.

Nays—messrs. Bruce, Catlett, Cockerill, Cravens, Dejarnett, Desha, Eaves, Gordon, Green, J. G. Hardin, Herald, Inglish, Kincheloe, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Noland, Patterson, Payne, Pendleton, Slack, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, C. H. Taylor, Thompson, Wiley and Yancey—37.

Mr. Jackman from the select committee to whom was referred, a bill from the senate entitled, an act for the relief of certain sheriffs, reported the same with amendments.

Which being twice read were concurred in.

*Ordered*, That the said bill as amended, be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with,

*Resolved*, That the said bill as amended do pass.

*Ordered*, That Mr. Jackman inform the senate thereof, and request their concurrence in the said amendments.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Lockett—1. A bill to authorise the county court of Henderson to sell one acre of the public ground in the town of Henderson.

By Mr. Davis—2. A bill to amend the act incorporating the shareholders and directors of the Lexington Library.

3. A bill making appropriations for the use of Transylvania University and the Centre College of Kentucky.

By Mr. Brooking—4. A bill for the benefit of the heirs of James M'Knight.

And by Mr. Shannon—5. A bill for the benefit of William T. Henderson.

Which bills were severally received and read the first time and the 1st, 2d, 3d and 4th ordered to be read a second time.

And the question being taken on reading the fifth bill a second time, it was decided in the negative, and so the said bill was rejected.

And thereupon the rule of the house, constitutional provision and second and third readings of the first bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Lockett carry the said bill to the senate and request their concurrence.

Mr. Slaughter from the select committee to whom was referred, a bill for disposing of the land east of the Tennessee river and south of Walker's line, and north of latitude 36° 30′ reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time to-morrow.

A message from the senate by Mr. Crutcher:

*Mr. Speaker*,

The senate concur in the amendment proposed by this house to a bill from the senate entitled, an act to remove the seat of justice of Owen county; and they concur in the resolutions which originated in this house, in relation to the conduct which ought to be observed by Judges on certain occasions, with amendments, in which they request the concurrence of this house.

And then he withdrew.

Leave was given to bring in the following bills:

On the motion of Mr. Younger—1. A bill for the benefit of the heirs of William Shannon, dec.

On the motion of Mr. R. C. Anderson—2. A bill establishing a ferry from the lands of the Jefferson seminary across the Ohio river.

On the motion of Mr. Craig—3. A bill for the benefit of the Harlan seminary.

And on the motion of Mr. Stone of Wayne—4. A bill allowing further time to survey head-right claims, and to return plats and certificates to the Register's office.

Messrs. Younger, Pearcy and Logan, were appointed a committee to prepare and bring in the first; messrs. R. C. Anderson, Luckett and White, the second; messrs. Craig, Smith and Love, the third; and messrs. Stone of Wayne, Brents, Calhoun, Slaughter and A. Butler, the fourth.

Mr. Murray from the joint committee of enrolments, reported that the committee had presented to the governor, for his approbation and signature, the bills signed by the Speaker on this day.

On motion,

*Ordered*, That leave be given to withdraw the petitions for the formation of a new county out of part of the counties of Franklin, Mercer and Washington.

And then the house adjourned.

## FRIDAY, NOVEMBER 23, 1821.

Mr. J. S. Anderson presented the petition of Abijah Hightower, praying a divorce from his wife, Anasha, late Anasha Saunders.

And Mr. Yancey presented the petition of Nancy Fulcher, praying a divorce from her husband, William T. Fulcher.

Which petitions were severally received, read and referred to the committee of religion.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act to amend an act entitled, an act to establish the county of Perry; and an act to establish election precincts in certain counties.

And had found the same truly enrolled.

Whereupon, the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. Warfield read and laid on the table the following resolutions.

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That when they adjourn on the eighth of December next, they will adjourn without day.

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That they will on Thursday the 29th inst. proceed to the election of a Treasurer and Public Printer, also, a President and Directors for the Bank of the Commonwealth of Kentucky and the branches of said bank.

The house took up the resolution reported on the 17th instant, by the committee of propositions and grievances, for forming a new county out of parts of the counties of Jef-

ferson, Henry and Shelby, which being twice read, and amended by striking out the words, *is reasonable*, and inserting in lieu thereof the words, *be rejected*, was concurred in.

Mr. Wickliffe from the select committee to whom was referred, a bill from the senate entitled, an act to amend the militia law, reported the same with amendments.

Which being severally twice read, were disagreed to, and the said bill being further amended, was, with the amendments ordered to be read a third time.

A message from the Governor by MR. Anderson:

*Mr. Speaker,*

I am directed by the governor to inform this house that he did on the 22d inst. approve and sign enrolled bills which originated in this house, of the following titles:

An act to amend the laws regulating attachments.

An act for the benefit of Solomon Griffin and the heirs of Catharine Smith.

An act to alter the mode of admitting persons to bail under writs of habeas corpus.

An act for the benefit of the heirs of Turner Morehead and Lawrence Owen.

An act authorising and directing the county court of Bourbon to open and keep in repair a certain road.

An act to establish the line lately run between the states of Tennessee and Kentucky.

An act for the benefit of the heirs of Roger Robbins, deceased.

An act for the benefit of the heirs of David C. Irvine, deceased.

An act authorising the insertion of advertisements in certain newspapers.

An act for the benefit of Ansel Wilhoit.

An act appointing trustees for the town of Boonsborough and for other purposes.

An act concerning the Seminaries in the counties of Monroe, Perry, Jefferson and Simpson.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

A message from the senate by Mr. Ewing:

*Mr. Speaker,*

The senate concur in the amendment proposed by this house to a bill from that entitled, an act authorising the keeper of the penitentiary to build a smokehouse.

And then he withdrew.

The house then took up the resolutions reported from the committee of the whole house on the 21st instant, and the amendments thereto as made by the committee, which were read as follows, viz:

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That the Bank of Kentucky ought to be permitted, and ought to receive real property mortgaged to them, at a reasonable price, in discharge of debts in all cases where the principal debtor has no other means of payment.

2. *Resolved*, That the Bank of Kentucky ought to give credit and currency to the paper of the Bank of the Commonwealth, by receiving it in payment of debts, and re-issuing it in moderate loans to the people.

3. *Resolved*, That the Bank of the Commonwealth ought, without delay, to lend the balance of the three millions authorised by the act establishing the said Bank.

4. *Resolved*, That the Commonwealth's Bank ought to continue moderate calls on its debtors; and that after the first day of August next, the paper of said Bank ought to be gradually diminished, at the rate of at least twelve per cent. per annum, and retained in the Bank until the said Bank shall commence paying specie for its notes.

5. *Resolved by the House of Representatives*, That real estate within this Commonwealth, which may be sold before the first of January, 1825, under or by virtue of any execution, ought to be redeemable by the debtor or his creditors at any time within years after such sale, upon the payment of the price for which it may be sold, with an interest at the rate of per cent. per annum, unless the plaintiff in such execution shall before the sale, consent to receive the same at its value in payment. And that after the first day of January, 1825, real estate sold as aforesaid, ought to be redeemable within one year after the sale.

6. *Resolved*, That the defendants in judgments founded on any note, bond, or written contract, made after the day of next, by which the obligor or obligors, promise or agree in express terms to pay in specie, ought not to be allowed a replevin of more than three months; and such cases shall not be subject to the law requiring endorsements, that bank paper will be received in payment.

7. *Resolved*, That imprisonment for debt ought to be abolished except in case of fraud.

The first and second resolutions having been concurred in, the question was then put upon concurring in the third

resolution as reported from the committee, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Speed and J. G. Hardin, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, Bradford, Brents, Brooking, A. Butler, W. O. Butler, Calhoun, Clark, Cockerill, Cogswell, Cowan, Cravens, Desha, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, Herald, Hughes, Inglish, Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Lockett, Luckett, Lynch, J. Mason, May, M'Clanahan, M'Connell, S. M'Elroy, M'Cracken, Miller, Moore, Munford, Owsley, O'Bannon, Payne, Pope, Rudd, Selby, Slack, Slaughter, Stone of Wayne, J. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Worthington and Yancey—62.

Nays—messrs. R. C. Anderson, Barnett, Bruce, Catlett, Craig, Crawford, Davis, Dejarnett, M. Hardin, Howard, Logan, Love, B. Mason, H. M'Elroy, M'Millan, Murray, Patterson, Pearcy, Shannon, Smith, Speed, Stone of Madison, B. Taylor, C. H. Taylor, Witherspoon, Yantis and Younger—27.

It was then moved and seconded to amend the fourth resolution by striking out the "*first day of August*," and inserting in lieu thereof the "*first day of May*."

And the question being taken on agreeing to said amendment, it was decided in the negative.

The yeas and nays being required thereon by messrs. Catlett and Dejarnett, were as follows, viz:

Yeas—Mr. Speaker, Barnett, Bradford, Bruce, W. O. Butler, Cogswell, Cowan, Crawford, Davis, Dejarnett, Desha, Howard, Johnson, Lockett, Logan, Love, B. Mason, M'Connell, M'Cracken, Moore, Murray, Patterson, Pearcy, Pope, Shannon, Slack, Smith, Speed, Stone of Madison, Talbott, B. Taylor, C. H. Taylor, Todd, White, Witherspoon, Worthington, Yantis and Younger—37.

Nays—messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Brents, Brooking, A. Butler, Calhoun, Catlett, Clark, Cockerill, Craig, Cravens, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Jackman, Kincheloe, King, Litton, Lecompte, Luckett, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Munford, Owsley, O'Bannon, Payne, Pendleton, Rudd, Selby, Slaughter, Stone of Wayne, J. Taylor, Thompson, Warfield, Wickliffe, Wiley and Yancey—54.

The said resolution was then concurred in.

*Ordered*, That Mr. Pope, carry the said resolutions to the senate and request their concurrence.

The fifth and sixth resolutions were then concurred in, and the seventh laid on the table.

*Ordered*, That messrs. Pope, Logan, Wickliffe, R. C. Anderson, Brents, Cowan and Shannon, be appointed a committee to prepare and bring in a bill or bills pursuant to the 5th and 6th resolutions.

Mr. Moore moved the following resolution, viz:

*Resolved*, That a law ought to pass for bringing into market such portion of the public lands below the Tennessee river, as will give an assurance to the public, that the Legislature intends faithfully to apply the pledges already made for the redemption of the notes of the Commonwealth's Bank, and enhance the value of the balance of those lands; and that a committee be raised to bring in a bill for that purpose.

Which being twice read, was adopted; and messrs. Moore, Logan, Brents, Todd and Luckett, appointed a committee to prepare and bring in a bill pursuant to said resolution.

And then the house adjourned.

## SATURDAY, NOVEMBER 24, 1821.

Mr. Yantis from the joint committee of enrolments, reported that the committee had presented to the governor, for his approbation and signature, the bills signed on yesterday by the Speaker of this house.

Mr. Luckett presented the petition of sundry citizens of Louisville, Shippingport and Portland, praying for an act of incorporation.

Mr. Lockett presented the petition of sundry citizens of Henderson county, praying that the act of the last session classing tobacco, may be repealed; and that some regulations may be made on the subject of *taring* tobacco hogsheads intended for exportation.

Mr. Love presented the petition of sundry citizens of Knox county, praying that a law may pass to change the present route of the turnpike and wilderness road, so as that the same may pass through Barboursville.

And Mr. Craig presented the remonstrance of sundry citizens of Knox county, against the said petition.

Which petitions and remonstrance were severally received, read and referred; the first to a select committee of

messrs. Luckett, R. C. Anderson, White and Logan; the third and fourth to a select committee of messrs. Love, Yantis, Cowan, Moore, Stone and Warfield, giving said committees leave to report thereon by bills or otherwise; and the second was laid on the table.

A message from the senate by Mr. Ewing:

*Mr. Speaker,*

The senate have received official information, that the governor did on the 22d instant, approve and sign enrolled bills which originated in that house, of the following titles:

An act for the benefit of Mary M'Casland, formerly the wife and widow of Abel Shannonhouse, deceased.

An act for the benefit of the wife and children of Benjamin Herndon.

An act for the benefit of Hardy Witherspoon.

An act to amend the act reserving certain property from execution.

An act to prevent any further subscription on the part of the state for bank stock.

And they have passed a bill which originated in this house entitled, an act for the divorce of William Spangler and Samuel Campbell, with an amendment—in which they request the concurrence of this house.

And then he withdrew.

On motion,

*Ordered*, That a message be sent to the senate, requesting permission to withdraw a bill which passed this house entitled, an act to authorise sheriffs to sell real estate by virtue of executions issued upon a judgment of a justice; and that Mr. Todd carry the said message.

Mr. Rudd from the select committee appointed for that purpose, reported a bill authorising the county court of Bracken to purchase lands and erect buildings for the accommodation of their poor.

Which was received and read the first time and ordered to be read a second time.

On motion,

*Ordered*, That the committee of the whole house on the state of the commonwealth, be discharged from a further consideration of a bill from the senate entitled, an act to amend the act entitled, an act to regulate endorsements on executions; and that the same be committed to a select committee of messrs. Moore, Cowan, J. S. Anderson, R. C. Anderson, A. Butler and Howard.

A message from the Governor by Mr. Anderson:

*Mr. Speaker,*

I am directed by the governor to inform this house that he did on this day, approve and sign enrolled bills which originated in this house, of the following titles:

An act to establish election precincts in certain counties.

An act to amend an act entitled, an act to establish the county of Perry.

And then he withdrew.

*Ordered*, That mr. Murray inform the senate thereof.

*Ordered*, That a bill to amend an act for surveying the military claims west of the Tennessee river, approved Dec. 26th, 1820, be placed in the orders of the day.

A message from the senate by Mr. Ewing:

*Mr. Speaker,*

The senate have directed me to return, agreeably to the request of this house, a bill entitled, an act to authorise sheriffs to sell real estate by virtue of executions issued upon a judgment of a justice of the peace.

And then he withdrew.

A message from the senate by Mr. Lee their secretary:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act for the relief of Nancy Garth; an act for the relief of the sheriff of Green county; an act declaring Big Barren river further navigable, with amendments to the two latter bills: They concur in the amendments proposed by this house to a bill from that entitled, an act for the relief of certain sheriffs, with an amendment—And they have passed bills of the following titles: An act to amend and explain the penal laws as respects the trial and punishment of slaves; an act to amend the act vesting jurisdiction in the circuit courts to authorise the sale of the real estate of infants in certain cases; and an act to amend an act entitled, an act for the benefit of Daniel Trabue and others—in which amendments and bills they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Pope:

*Mr. Speaker.*

The senate have passed a bill which originated in this house entitled, an act authorising an appropriation of money to the president and managers of the Louisville Hospital, with an amendment, in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act for the benefit of Elijah Hise and others, with amendments, in which they request the concurrence of this house.

And then he withdrew.

The house took up the amendments proposed by the senate to resolutions which originated in this house, in relation to the conduct which ought to be observed by Judges on certain occasions, which were twice read as follows, viz:

The following preamble to precede the resolutions, viz:

"An enquiry having been instituted into the judicial conduct of Benjamin Mills, Esq. one of the Judges of the Court of Appeals, and doubts having been entertained as to the correctness of his course, in many points of vital importance; in order to express the opinion of the Legislature thereupon, and to preserve inviolate certain fundamental principles"—

Add to the second resolution, "as a Circuit Judge."

It was then moved and seconded, to postpone the further consideration of said resolutions and amendments until the first day of March next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Worthington and Cockerill, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Catlett, Cogswell, Cowan, Crawford, Dejarnett, Eaves, Fletcher Gordon, M. Hardin, Howard, Logan, B. Mason, Moore, Payne, Smith, Speed, Stone of Madison, Talbott, B. Taylor, C. H. Taylor, Todd, Warfield, Wickliffe, Witherspoon and Yantis—30.

Nays—messrs. J. S. Anderson, Brents, Brooking, Bruce, A. Butler, Calhoun, Clark, Cockerill, Craig, Cravens, Desha, Duncan, Green, J. G. Hardin, Herald, Hughes, English, Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Lockett, Love, Lynch, J. Mason, May, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, Owsley, O'Bannon, Patterson, Pearcy, Pendleton, Pope, Rudd, Sandford, Selby, Shannon, Slack, Slaughter, Stone of Wayne, J. Taylor, Thompson, White, Worthington, Yancey and Younger—55.

The question was taken on concurring in the first amendment proposed by the senate, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Worthington and Cockerill were as follows, viz:

Yeas—messrs. J. S. Anderson, Brooking, Bruce, A. Butler, Calhoun, Clarke, Cockerill, Craig, Cravens, Desha, Duncan, Green, J. G. Hardin, Hughes, Inglish, Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Lockett, Lynch, J. Mason, May, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, Owsley, O'Bannon, Patterson, Pearcy, Pendleton Pope, Rudd, Sandford, Selby, Shannon, Slack, Slaughter, Stone of Wayne, J. Taylor, Thompson, White, Worthington, Yancey and Younger—50.

Nays—mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brents, Catlett, Cogswell, Cowan, Crawford, Dejarnett, Eaves, Fletcher, Gordon, M. Hardin, Herald, Howard, Logan, Love, B. Mason, M'Millan, Moore, Murray, Payne, Smith, Speed, Stone of Madison, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, Wickliffe, Witherspoon, and Yantis—35.

The second amendment was then concurred in.

*Ordered*, That Mr. Shannon inform the senate thereof.

Mr. Worthington moved the following resolution.

Whereas the trial of Benjamin Mills, one of the Judges of the court of appeals, seems likely to excite considerable interest as well as discussion amongst the good people of this land,

*Resolved by the house of representatives of the Commonwealth of Kentucky*, That the memorials, responses, charges and specifications, together with the whole evidence in said trial, be spread upon the journals of this house.

And then the house adjourned.

## MONDAY, NOVEMBER 26, 1821.

The house took up the preamble and resolution laid on the table on the 6th instant by mr. Murray, which was twice read and adopted.

*Ordered*, That messrs. Murray, Witherspoon, Logan, R. C. Anderson, Slack and Warfield, be appointed a committee to prepare and bring in a bill pursuant to said resolution.

The house took up the report of the committee to whom was referred, so much of the governor's message as relates to education, and the resolutions recommended by said com-

mittee, which being again read (and the second resolution amended by inserting "*to the governors of the several states and,*") were concurred in.

*Ordered*, That Mr. Payne carry the said report and resolutions to the senate and request their concurrence.

On motion,

*Ordered*, That the petition presented on Saturday last by Mr. Lockett, from sundry citizens of Henderson county, be referred to a select committee of messrs. Lockett, Howard, Brooking, Yantis and M'Millan, giving said committee leave to report thereon by bill or otherwise.

On the motion of Mr. Speed,

*Ordered*, That leave be given to bring in a bill to amend an act for establishing private passways; and that messrs. Speed, Talbot, M'Millan and Luckett, be appointed a committee to prepare and bring in the same.

A message from the senate by Mr. Williams:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to authorise the county court of Montgomery to elect the trustees of the Montgomery Academy, in which they request the concurrence of this house.

And then he withdrew.

An engrossed bill entitled, an act making compensation to the surveyor appointed on the part of this state for running and marking the boundary line between the states of Kentucky and Tennessee, was read a third time and the blank in the first section filled.

It was then moved and seconded to fill the blank in the second section with the sum of *one hundred and thirty dollars*, as the amount of compensation to be allowed the assistant surveyor employed in running said line.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. J. Taylor and M. Hardin, were as follows, viz:

Yeas—messrs. R. C. Anderson, Barnett, Bradford, Brents, Brooking, Buford, A. Butler, Calhoun, Catlett, Cowan, Craig, Davis, Desha, Fletcher, J. G. Hardin, Howard, Jackman, Kincheloe, King, Logan, Love, M'Millan, Moore, Murray, Owsley, O'Bannon, Payne, Rudd, Sandford, Selby, Shannon, Slack, Slaughter, Smith, Todd, Warfield, White, Wickliffe, Witherspoon, Worthington, Yancey, Yantis and Younger—43.

Nays—Mr. Speaker, messrs. Alexander, J. S. Anderson, Bruce, Cockerill, Cravens, Crawford, Dejarnett, Duncan, Eaves, Gordon, Green, M. Hardin, Herald, Inglish, Litton, Lecompte, Lockett, Lynch, B. Mason, J. Mason, May, H. M'Elroy, M'Cracken, Miller, Mullens, Munford, Noland, Pearcy, Pendleton, Speed, Stone of Madison, Talbot, J. Taylor, C. H. Taylor and Thompson—36.

The said bill being amended by attaching thereto an engrossed clause by way of rider.

*Resolved*, That the said bill do pass, and that the title thereof be amended to read, "an act making compensation to the surveyor and others employed on the part of this state for running and marking the boundary line between the states of Kentucky and Tennessee."

*Ordered*, That Mr. Love carry the said bill to the senate and request their concurrence.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

I am directed by the senate to request the leave of this house to withdraw a bill which originated in this house, authorising an appropriation of money to the president and managers of the Louisville Hospital, and which was reported to this house as having passed the senate with an amendment.

And then he withdrew.

Whereupon, *Resolved*, That permission be granted accordingly; and that Mr. Anderson inform the senate thereof.

A bill to repeal the law giving ten per centum damages upon the dissolution of injunctions and the dismissal of appeals, was read a second time as follows, viz:

*Be it enacted by the General Assembly*, That so much of any law as gives ten per centum damages upon the dissolution of an injunction, the dismissal of an appeal or writ of error, or confirmation of a judgment on the trial of any appeal or writ of error, shall be, and the same is hereby, repealed: *Provided, notwithstanding*, That where it shall appear to the court by whom the said injunction, appeal or writ of error is tried, that the same was applied for and obtained for the mere purpose of delaying the original judgment; then, and in that case, the court shall give judgment for the ten per centum damages as heretofore: *And provided also*, That nothing herein contained, shall be so construed as to operate upon any appeal, bill of injunction, or writ of error, now pending and undetermined.

This act shall take effect from and after its passage.

It was then moved and seconded, to postpone the further consideration of said bill until the first day of March next.

And the question being taken thereon it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Worthington and Noland, were as follows, to wit:

Yeas—Messrs. Barnett, Cogswell, Cowan, Cravens, Dejarnett, Desha, Eaves, Gordon, Green, M. Hardin, Howard, Inglish, Kincheloe, Litton, Lockett, Logan, Love, Luckett, Lynch, B. Mason, H. M'Elroy, M'Millan, M'Cracken, Miller, Murray, Noland, Payne, Pearcy, Pendleton, Rudd, Selby, Slack, Speed, Stone of Madison, Talbot, C. H. Taylor, Thompson, Warfield, White, Wickliffe, Yantis and Younger—42.

Nays—Mr. Speaker, messrs. Alexander, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, Calhoun, Catlett, Cockerill, Craig, Crawford, Davis, Duncan, Fletcher, J. G. Hardin, Herald, Hughes, Jackman, King, Lecompte, J. Mason, May, M'Connell, Moore, Mullens, Munford, Owsley, Sandford, Shannon, Slaughter, Smith, J. Taylor, Todd, Witherspoon, Worthington and Yancey—41.

An engrossed bill entitled, an act to authorise the establishment of a branch of the Bank of the Commonwealth in the thirteenth judicial district, was read a third time and laid on the table.

The following bills were severally read a second time, viz: 1. A bill giving further time to the settlers on the lands acquired by the treaty of Tellico, to return plats and certificates of survey; and 2. a bill to amend the law regulating the action of detinue.

The former was committed to a select committee of messrs. Howard, Yancey, Stone of Wayne, A. Butler and Fletcher; and the latter was laid on the table.

A message from the senate by Mr. Pope:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act authorising an appropriation of money to the president and managers of the Louisville Hospital.

And then he withdrew.

The following bills from the senate were severally read a second time, viz: 1. An act to regulate trials of the right of property in the country; 2. an act for the benefit of the

sheriff of Caldwell county; 3. an act for the benefit of Polly Parker and children; 4. an act to amend an act entitled, an act to amend an act directing certain surveyors to transcribe certain entry books; 5. an act to prevent horse racing on the public highways; 6. an act to legalize the proceedings of the Floyd county court; 7. an act to amend an act establishing a seminary in Rockcastle county; and 8. an act to revive the law providing for the appointment of commonwealth's attornies.

The 1st, 2d, 3d, 4th, 6th, 7th and 8th, were severally ordered to be read a third time, (the 8th as amended at the clerk's table,) and the fifth was committed to a select committee of messrs. Payne, Bradford, Shannon, Pendleton and Herald.

And thereupon the rule of the house, constitutional provision and third reading of the 2d and 6th bills being dispensed with,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Cravens inform the senate thereof.

And then the house adjourned,

## TUESDAY, NOVEMBER 27, 1821.

Mr. Craig presented the memorial of Thomas Arthur and Alexander Goodin, exhibiting charges against John Ward, a justice of the peace for the county of Knox, and praying his removal from office.

Mr. R. C. Anderson presented the remonstrance of sundry citizens of Portland and Shippingport, against the proposed incorporation of those towns with the town of Louisville.

Mr. M'Connell presented the petition of William M'Bride, praying for permission to locate the balance of land warrants heretofore granted by the legislature to said William and Lapsley M'Bride, upon any vacant and unappropriated lands lying east of the Tennessee river and south of Walker's line.

Mr. Cravens presented the petition of sundry citizens of the county of Trigg, praying that a law may pass to authorise them to express their opinion by vote at the next election, as to the propriety of removing the seat of justice of said county.

And Mr. Cravens presented a petition counter thereto.

Which petitions were severally received and read; the first was laid on the table; the second was referred to the committee to whom was referred, the petition of the citizens of Louisville, praying for an act of incorporation of said town and the towns of Shippingport and Portland; the third was referred to the committee for courts of justice; and the fourth and fifth to the committee of propositions and grievances.

A message from the senate by Mr. Lee, their secretary:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act for the benefit of Jesse Walker; an act for the benefit of Samuel Simpson and others; an act for the benefit of Jesse Walker and others; and an act for the benefit of the clerk of the circuit and county courts of Cumberland, with amendments to the three latter. They have passed bills of the following titles: An act to encourage the publication of a digest of the statute laws of Kentucky; an act to amend an act to appoint trustees to the town of Franklin; and an act to extend the limits of the town of Princeton, to legalize the proceedings thereof and give them additional powers, and for other purposes—in which amendments and bills they request the concurrence of this house.

And then he withdrew.

Mr. Howard from the select committee to whom was referred, a bill giving further time to the settlers on the lands acquired bo the treaty of Tellico, to return plats and certificates of survey, reported the same with an amendment, which being twice read was concurred in; and the said bill being further amended, was, with the amendments, ordered to be engrossed and read a third time to-morrow.

A message from the senate by Mr. Pope:

*Mr. Speaker,*

I am directed by the senate to inform this house, that the senate have determined by resolution to adjourn at one o'clock, P. M. for the purpose of interring the remains of Col. Thomas Dollerhide, late a member of that body.

And then he withdrew.

Mr. Payne from the select committee to whom was referred, a bill from the senate entitled, an act to prevent horse-racing on the public highways, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with,

*Resolved*, That the said bill as amended do pass.

*Ordered*, That Mr. Payne inform the senate thereof, and request their concurrence in said amendment.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Payne from the committee of religion—1. A bill for the divorce of sundry persons.

By Mr. Younger—2. A bill for the benefit of the heirs of William Shannon, dec.

By Mr. Witherspoon—3. A bill to incorporate the Lexington medical society.

By Mr. Jackman—4. A bill to regulate by law the mode of compensating attornies for the commonwealth in the county courts.

By Mr. Witherspoon—5. A bill for the benefit of the heirs of William Allen, deceased.

By Mr. Selby—6. A bill to remove the Branch of the Commonwealth's Bank in the eighth judicial district, from Greensburg to Columbia.

By Mr. Love—7. A bill regulating the turnpike and wilderness state road.

And by Mr. King—8. A bill to amend the charter of the Bank of the commonwealth of Kentucky.

Which bills were severally received and read the first time, and the 1st, 2d, 3d, 4th, 5th, 7th and 8th, ordered to be read a second time; and the 6th was postponed until the first day of March next.

The yeas and nays being required on the postponement of the 6th bill by messrs. King and Brents, were as follows:

Yeas—Mr. Speaker, messrs. R. C. Anderson, Bradford, Brents, Brooking, Buford, A. Butler, Calhoun, Clark, Cogswell, Cowan, Craig, Cravens, Crawford, Dejarnett, Eaves, Fletcher, Gordon, Green, Herald, Howard, Hughes, Jackman, Johnson, Kinchloe, Lecompte, Lockett, Logan, Luckett, Lynch, J. Mason, M'Connell, H. M'Elroy, M'Cracken, Mullins, Mumford, Murray, Noland, O'Bannon, Payne, Pendleton, Rudd, Sandford, Shannon, Speed, Stone of Madison, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Todd, White and Witherspoon—53.

Nays—messrs. Alexander, Barnett, Bruce, Catlett, Cockerill, Davis, Desha, Duncan, J. G. Hardin, M. Har-

din, Inglish, King, Litton, B. Mason, M'Millan, Miller, Moore, Owsley, Patterson, Pearcy, Selby, Slack, Smith, Warfield, Yancey, Yantis and Younger—27.

The house took up the resolution laid on the table on the instant by Mr. Warfield, fixing on a day for the election of a Treasurer and Public Printer, and a President and Directors of the Bank of the Commonwealth of Kentucky and Branches, which was amended and concurred in, as follows, viz:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That they will on Monday the 3d of December next, proceed to the election of a Treasurer and Public Printer, and a President and Directors for the Bank of the Commonwealth of Kentucky and the Branches of said Bank; also, a President and Directors of the Bank of Kentucky, and Trustees to the Transylvania University.

*Ordered*, That Mr. Warfield carry the said resolution to the senate and request ther concurrence.

Mr. Fletcher moved the following resolution, viz:

*Resolved by the house of representatives of the Commonwealth of Kentucky*, That the President of the Bank of Kentucky be requested as soon as practicable, to lay before this house, a copy of the resolution or resolutions relative to the propriety of the Bank of Kentucky receiving the paper of the Bank of the Commonwealth, and the names of the Directors who voted for and against said resolution or resolutions; also, the resolution relative to the resumption of specie payments, and the resolutions in relation to the reception of lands mortgaged to that institution in payment of debts, and the names of the Directors who voted for and against each of said resolutions.

Which being twice read was adopted.

A message from the senate by Mr. Ward:

*Mr. Speaker*,

The senate have passed a bill entitled, an act for the benefit of the widow and heirs of John R. Chitwood—in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Luckett moved the following resolution.

*Resolved*, That this house will adjourn at one o'clock to attend on the funeral of Col. Thomas Dollerhide, late a member of the Senate; and that a message be sent to the Senate to inform them, that this house will co-operate with them in any measure paying respect to his memory.

Which being twice read was adopted.

*Ordered*, That Mr. Luckett carry the said message.

Mr. Patterson read and laid on the table the following resolution, viz:

Whereas many of the citizens of this commonwealth who were entitled to the relief granted by an act of Congress, approved the second day of March last, entitled, an act for the relief of the purchasers of public land prior to the first day of July, 1821, owing to their distance from the land offices, and being often under the necessity of trusting to agents, their imperfect knowledge of the provisions of said act and their forwarding to the offices irregular declarations, have failed in procuring the relief held out to them by the said act: Therefore,

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That our senators and representatives in Congress be requested to use their exertions to procure the revival of the said act for a sufficient time to afford the citizens of this commonwealth another opportunity to avail themselves of its provisions.

*Resolved*, That the governor of this commonwealth be, and he is hereby requested to forward a copy of the foregoing preamble and resolutions, to each of our senators and representatives in the Congress of the United States.

Leave was given to bring in the following bills:

On the motion of MR. Howard—1. A bill for the benefit of the heirs of James White, deceased.

On the motion of MR. Todd—2. A bill to amend the several acts in relation to the appropriation of fines and forfeitures for the purpose of promoting education.

On the motion of MR. Brooking—3. A bill to amend the law allowing compensation to venire men, approved January, 1816.

On the motion of MR. Noland—4. A bill for the relief of John H. Barnes, clerk of the Estill circuit and county courts.

And on the motion of MR. H. M'Elroy—5. A bill to authorise the trustees of the Union seminary to sell certain lands.

Messrs. Howard, Stone of Madison, Dejarnett and Logan, were appointed a committee to prepare and bring in the first; messrs. Todd, Moore, Murray, Brents, Davis and Yantis, the second; messrs. Brooking, A. Butler, Clark and Cravens, the third; messrs. Noland, Calhoun, Howard and C. H. Taylor, the fourth; and messrs. H. M'Elroy, S. M'Elroy, Desha and Munford, the fifth.

*Ordered*, That a bill to establish a state Lunatic Hospital, be placed in the orders of the day.

The amendments proposed by the senate to a bill which originated in this house entitled, an act for the relief of the sheriff of Green county, were twice read and concurred in.

*Ordered*, That Mr. Brents inform the senate thereof.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

The senate have appointed a committee of three on their part, to confer with such committee as may be appointed on the part of this house, to make the necessary arrangements for forming the funeral procession for interring the remains of the late Col. Thomas Dollerhide.

And then he withdrew.

Whereupon, messrs. Payne, Luckett, M'Millan, Smith, Yaucey and Stone of Wayne, were appointed a committee on the part of this house.

The said committee then retired, and after a short time returned, when Mr. Payne reported that the joint committee of arrangements had agreed on the following arrangement and order of procession, viz:

The members of both branches of the legislature will proceed from the state house, at one o'clock P. M. at the ringing of the bell, to the house of Littleberry Batchelor; thence proceed with the corpse to the place of interment.

The following order of procession shall be observed: The corpse shall precede the procession; the speakers of both houses shall follow, and be succeeded by the members of both branches, by twos.

And then the house adjourned.

## WEDNESDAY, NOVEMBER 28, 1821.

Mr. M'Connell presented the petition of Charlotte Harrison, praying a divorce from her husband, Obadiah R. Harrison.

Which was received, read and referred to the committee of religion.

Mr. Allen from the joint committee appointed to examine the Treasurer's Office, made the following report:

The joint committee of the senate and house of representatives appointed to examine the Treasurer's Office, have performed that duty.

They have with great care and labor, examined the evidence and vouchers in support of each charge against the commonwealth, and receipts in the period of the last twelve months, commencing on the 11th of October 1820, and ending on the 10th of October, 1821, inclusive, they find all the charges supported by legal vouchers. They discovered no mistake in any instance. The receipts correspond with the books of the Treasury. They compared the general account as stated in the Treasurer's books, with his report made to the legislature on the 17th of October last, and find a perfect correspondence between the books & said report.

Your committee therefore deem it unnecessary to make a detailed statement, as it would be but a repetition of the Treasurer's report.

Your committee are highly pleased with the manner in which that office is kept, and the correct and neat manner in which the business is done.

*From the Senate,*

JAMES DAVIDSON,
JOHN FAULKNER,
THO. S. SLAUGHTER.

*From the House of Representatives,*

C. H. ALLEN,
JAMES STONE,
JAMES DEJARNETT,
JOHN JACKMAN,
JOHN BUFORD.

Mr. Luckett from the select committee appointed for that purpose, made the following report:

The committee to whom was referred, the petition of Ambrose Camp, stating that in the year 1817, while acting as

deputy sheriff of Jefferson county, he received $115 in notes of the Insurance Company, in payment of the revenue for that year; that he in due time tendered them at the treasury; that they were refused; and that he has fully paid the amount to the state—and praying that he may be reimbursed for the said amount, have had the same under consideration, and submit the following resolution:

*Resolved*, That the petition *is reasonable*.

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to said resolutions.

Mr. Pope from the joint committee appointed to examine the Bank of Kentucky, made the following report, viz:

THE joint committee appointed to examine the situation of the Bank of Kentucky, have performed the duty required, and have agreed upon the following report:

| | | |
|---|---|---|
| The capital stock of the said Bank consists of 27,246 shares at $100 or | $2,724,600 | |
| All of which has been paid by the respective shareholders, except upon 9 shares there yet remains unpaid, | 680 | |
| Total amount of capital stock paid in, | | 2,723,920 00 |
| Of the said stock the state owns 5,967 shares or | $596,700 | |
| Owned by corporations 283 shares or, | 28,300 | |
| By individuals 20,996 shares or, | 2,098.920 | 2,723,920 00 |
| Balance not paid for by individuals upon 9 shares, $680 which draws no dividend, | 680 | |
| Amount of debts due the corporation, | | 4,019,706 45 |
| The parts thereof consisting of accounts against other banks, &c. | | 180,935 02 |
| Due upon bills of exchange and negotiable notes, | | 3,838,771 43 |

Of which $592,893 79 is due from stockholders and secured by pledge of stock, and for which 7,392 shares are pledged.

| | |
|---|---|
| Stockholders who are indebted to the institution. could extinguish with their stock at par, | 782,882 00 |
| Leaving due from individuals without stock, | 3,055,889 43 |

The amount of cash on hand in the bank and its branches is classed as follows :

| | |
|---|---|
| Specie, | 270,502 10 |
| Paper reported by the bank as equal to specie, | 22,387 00 |
| Paper of the offices of said bank, | 371,171 00 |
| Do. of the bank of the Commonwealth, | 153,081 33 |
| Do. of other banks not equal to specie but good, | 810 25 |
| Do. do. not current, | 5,068 50 |
| Do. do. insolvent, | 1,322 25 |
| Do. do. counterfeit, | 998 10 |
| Total, | 825,350 53 |

| | |
|---|---|
| The notes of said Bank under issue on the first of October last, as appears by the report made to the Legislature, | $1,290,888 06 |
| Of which had been redeemed and in possession of their offices up to and on the same day, | 371,171 00 |
| Leaving of their notes on the same day unredeemed and in circulation, | 919,717 06 |
| The deposites in the several offices of the corporation amount to, | 799,663 47 |
| Under this head are included, balances due from the offices respectively each to the other, to the amount of | 109,959 00 |
| Leaving of the deposites for which the corporation is indebted, | 689,704 47 |
| To which add their notes in circulation, | 919,717 06 |
| The Bank indebted, | $1,609,421 53 |

The annexed abstract exhibits the above statements, as the funds, debts, &c. are applicable to the several offices.

| Office. | Stock | Notes in circulation | Deposites. | Cash on hand. | Due to the Bank. | Specie. |
|---|---|---|---|---|---|---|
| | Dollars. | D C. | D C. | D. C. | D. C | D C. |
| Frankfort, | 642,220 | 339,349 31 | 100,265 19 | 47,487 26 | 1 081 095 14 | 26,976 01 |
| Washington, | 250.000 | 58,523 75 | 49,927 76 | 61.127 56 | 292 379 35 | 18,293 23 |
| Paris, | 160,000 | 47,714 | 48,950 24 | 54,218 59 | 197 278 21 | 18,043 99 |
| Winchester, | 120,000 | 41,165 50 | 58,455 65 | 48,107 29 | 168,039 39 | 3,944 79 |
| Lexington, | 272,800 | 80,286 | 145,019 47 | 155,738 07 | 292,313 32 | 16,609 57 |
| Shelbyville, | 110,000 | 48,487 | 28,642 44 | 16,135 92 | 168,248 46 | 5.786 42 |
| Louisville, | 325,000 | 41,595 75 | 44,435 40 | 115,285 77 | 391 597 15 | 34,780 27 |
| Bardstown, | 113,900 | 77,227 | 26 635 48 | 39,062 21 | 167 046 81 | 19,156 71 |
| Springfield, | 100,000 | 79,802 | 9,442 31 | 24,155 55 | 167,234 05 | 13,859 55 |
| Danville, | 150,000 | 84,702 50 | 7,519 41 | 45,973 62 | 198,222 10 | 27,675 62 |
| Richmond, | 120,000 | 52,410 | 43 166 01 | 43,733 73 | 174,351 17 | 16,620 73 |
| Glasgow, | 100,000 | 106,715 | 17 750 96 | 29 392 85 | 197,126 95 | 11,977 85 |
| Russellville, | 140,000 | 149,376 25 | 74,628 93 | 80,539 73 | 287,877 51 | 31,283 97 |
| Hopkinsville | 120,000 | 133,524 | 44,824 22 | 64,392 39 | 236,896 84 | 25,493 39 |
| | 2 723 920 | 1,290,883 06 | 799,663 47 | 825,350 53 | 4.019,706 45 | 270,502 10 |

| | | | |
|---|---|---|---|
| Stock, | 2,723,920 | Cash on hand, | 825,350 53 |
| Notes in cir. or under issue, | 1,290,888 06 | Due to the bank, | 4,019,706 45 |
| Deposites, | 799,663 47 | Real estate, | 80.289 82 |
| | $ 4,814 471 53 | | $ 4,925,346 80 |
| Reserved profits, | 69,599 30 | Charges, | 14,554 53 |
| Running profits, | 55,961 64 | Deficit of Cash, | 131 14 |
| | $ 4,940,032 47 | | $ 4,940,032 47 |

The foregoing statements are made upon information which your committee obtained at the bank, and is respectfully submitted.

*From the Senate,*

HERMAN BOWMAR,
ALEXANDER POPE,
JAMES CRUTCHER,
TH. D. CARNEAL.

*From the House of Representatives,*

JOHN POPE,
JOHN CALHOUN,
LEE WHITE,
JAMES LOVE,
GEORGE SHANNON,
DAVID G. COWAN,
THOMAS FLETCHER.

*Ordered*, That the public printers forthwith print 140 copies of said report, for the use of the members of this house.

Mr. Mason presented the petition of Eleanor Madison, praying a divorce from her husband, James Madison.

Which was received read and referred to the committee of religion.

Mr. Worthington read and laid on the table the following resolution, viz:

*Resolved by the Legislature of this Commonwealth*, That a Tombstone be erected to the memory of General Charles Scott, a hero of the revolution; and another to the memory of George Madison, late Governor of Kentucky, with suitable inscriptions on each; and that they be furnished by the Keeper of the Penitentiary.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By Mr. Craig—1. A bill for the benefit of the seminary in Harlan county.

By Mr. Cosby—2. A bill to improve the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling Fork, to the summit of Muldrough's hill.

By Mr. White—3. A bill to alter and amend the fifth section of an act entitled, an act to amend and reduce into one the several acts regulating Middletown, in Jefferson county.

By Mr. Smith—4. A bill for the benefit of Henry S. Langford, infant heir of Stephen Langford, dec.

By Mr. Speed—5. A bill to amend an act entitled, an act to authorise the establishment of private passways.

And by Mr. Clark—6. A bill to reduce magistrates fees in cases of five pounds and under.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 3d and 4th bills being dispensed with, the third was ordered to be engrossed, and read a third time; and the fourth was committed to a select committee of messrs. Howard, Smith, Dejarnett, Noland and Brents.

And thereupon the rule of the house, constitutional provision and third reading of the third bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. White carry the said bill to the senate and request their concurrence.

Leave was given to bring in the following bills:

On the motion of mr. Allen—1. A bill providing for a change of venue in the case of Elisha English, Jr.

On the motion of mr. May—2. A bill to authorise the Register of the land office to issue grants within months after the plat and certificate of survey shall be registered.

On the motion of mr. Kincheloe—3. A bill to legalize the proceedings of the Nelson county court for November term, 1821.

On the motion of mr. Slack—4. A bill to revive and extend the eighth section of an act entitled, an act establishing circuit courts in this commonwealth.

On the motion of Mr. Cosby—5. A bill to reduce the number of officers of the State bank of Kentucky and its branches, and for other purposes.

And on the motion of mr. Yancey—6. A bill to reduce the public revenue.

The yeas and nays being required on granting leave to bring in the fourth bill by messrs. Cosby and Slack, were as follows, viz:

Yeas—messrs. Alexander, Allen, Bradford, Brooking, Bruce, Buford, A. Butler, Calhoun, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Fletcher, Green, Griffith, Herald, Johnson, Kincheloe, King, Lecompte, Luckett, J. Mason, May, H. M'Elroy, M'Millan, Miller, Mullens, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Sandford, Selby, Shannon, Slack, J. Taylor, C. H. Taylor, Todd, White, Wiley and Witherspoon—46.

Nays—messrs. J. S. Anderson, R. C. Anderson, Barnett, Brents, Catlett, Clark, Cockerill, Cogswell, Cosby, Cowan, Eaves, Gordon, J. G. Hardin, M. Hardin, Howard, Inglish, Jackman, Litton, Lockett, Logan, Love, Lynch, B. Mason, M'Connell, M'Cracken, Moore, Murray, O'Bannon, Pendleton, Rudd, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, Warfield, Yancey, Yantis and Younger—41.

The yeas and nays being required on granting leave to bring in the fifth bill by messrs. Catlett and Cosby, were as follows:

Yeas—messrs. Allen, J. S. Anderson, Brents, Brooking, Bruce, Buford, A. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cosby, Craig, Cravens, Davis, Dejarnett, Desha,

Duncan, Eaves, Gordon, Green, Griffith, M. Hardin, Herald Inglish, Jackman, Kincheloe, Litton, Lecompte, Lockett, Love, Lynch, B. Mason, J. Mason, May, H. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, Noland, Owsley, Pearcy, Pendleton, Rudd, Sandford, Shannon, Slaughter, Smith, Stone of Madison, Stone of Wayne, J. Taylor, Warfield, Witherspoon, Yancey, Yantis and Younger—60.

Nays—messrs. Alexander, Barnett, Bradford, Cowan, J. G. Hardin, Howard, Johnson, Luckett, M'Connell, Moore, Payne, Selby, Slack, Speed, Talbot, B. Taylor, C. H. Taylor, and Todd—18.

Messrs. Allen, Lecompte, Logan and W. O. Butler, were appointed a committee to prepare and bring in the first; messrs. May, M'Millan and Howard, the second; messrs. Kincheloe, Wickliffe, Speed and Cosby, the third; messrs. Slack, Worthington, Desha, Payne and Shannon, the fourth; messrs. Cosby, Cogswell, Davis, A. Butler, Pope and Yancey, the fifth; and messrs. Yancey, J. G. Hardin, Lynch, Owsley and R. C. Anderson, the sixth.

A message from the senate by Mr. Lee their secretary:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act concerning the towns of Madisonville and North Middleton; and they have passed a bill entitled, an act for the benefit of Luke Munsell—in which bill they request the concurrence of this house.

And then he withdrew.

*Ordered*, That the committee of the whole house on the state of the commonwealth, be discharged from a further consideration of a bill to amend the several acts regulating sheriffs and constables fees in this commonwealth; and that the same be placed in the orders of the day.

A bill from the senate entitled, an act to increase & regulate the judicial districts, was read a third time as amended.

*Resolved*, That the said bill as amended do pass.

*Ordered*, That Mr. Love inform the senate thereof and request their concurrence in the said amendments.

The yeas and nays being required on the passage of said bill by messrs. Catlett and Rudd, were as follows:

Yeas—messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Buford, Calhoun, Clarke, Cosby, Cowan, Craig, Crawford, Davis, Duncan, Fletcher, Griffith, M. Hardin, Howard, Hughes, Jackman, Johnson, King, Litton, Lecompte, Lockett, Lo-

gan, Love, Luckett, H. M'Elroy, Moore, Mullens, Murray, Owsley, Pearcy, Rudd, Sandford, Shannon, Slaughter, Smith, Speed, B. Taylor, Todd, Warfield, White, Witherspoon, Yantis and Younger—50.

Nays—Messrs. Bruce, A. Butler, Catlett, Cockerill, Cogswell, Cravens, Dejarnett, Desha, Eaves, Gordon, Green, J. G. Hardin, Herald, Inglish, Kincheloe, Lynch, B. Mason, J. Mason, May, M'Connell, M'Millan, M'Cracken, Miller, Munford, Noland, Patterson, Payne, Pendleton, Selby, Slack, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, C. H. Taylor, Wiley and Yancey—37.

A message from the senate by Mr. Ward:

*Mr. Speaker*,

The senate have passed a bill entitled, an act declaring the power of the county courts relative to opening roads—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Jones:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to change the March term of the Madison circuit court—in which bill they request the concurrence of this house.

And then he withdrew.

Bills from the senate of the following titles, viz: 1. An act authorising the keepers of Turnpike gates to take up strays; 2. an act for the benefit of the heirs of Patrick H. Rice; 3. an act for the benefit of Samuel Lewis,

Were severally read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bills being dispensed with, the said bills (the third being amended at the clerk's table) were ordered to be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the two former bills being dispensed with,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Brents inform the senate thereof.

The following bills were severally read a second time, viz: 1. A bill to regulate the Bath Seminary in Bath county; 2. a bill to amend an act concerning a house of public worship in the town of Frankfort; 3. a bill for the benefit of the heirs of George Chism, dec.; 4. a bill for the benefit of the heirs of Abraham Carter, deceased; 5. a bill to

amend an act incorporating the shareholders and directors of the Lexington Library; 6. a bill making appropriations for the use of Transylvania University and the Centre College of Kentucky; and 7. a bill for the benefit of the heirs of James M'Knight.

The 1st, 3d, 4th, 5th and 7th, were severally ordered to be engrossed and read a third time; the second was committed to a select committee of messrs. Todd, B. Taylor and Payne; and the sixth to a select committee of messrs. Cowan, Davis, Shannon, Moore, Brooking, Pope, Witherspoon and Slaughter.

And thereupon the rule of the house, constitutional provision and third reading of the 1st, 3d, 4th, 5th and 7th bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That MR. Brents carry the said bills to the senate and request their concurrence.

Engrossed bills of the following titles: 1. An act authorising the Register to perform certain duties; and 2. an act for disposing of the land east of the Tennessee river and south of Walker's line, and north of latitude 36° 30'

Were severally read a third time, and an engrossed clause added to the second by way of ryder.

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Brents carry the said bills to the senate and request their concurrence.

A message from the senate by Mr. Faulkner:

*Mr. Speaker*,

The senate have adopted a resolution from this house appointing joint committees to examine the reports from the Bank of the Commonwealth and branches, with an amendment—in which they request the concurrence of this house.

And then he withdrew.

A bill from the senate entitled, an act to amend the militia law, was read a third time as amended.

*Resolved*, That the said bill as amended do pass.

*Ordered*, That MR. Brents inform the senate thereof, and request their concurrence in said amendments.

The house took up the amendments proposed by the senate to bills from this house of the following titles: An act declaring Big Barren river further navigable; an act for the

divorce of William Spangler and Samuel Campbell; and an act for the benefit of Elijah Hise and others.

Which being twice read were concurred in.

*Ordered*, That Mr. Brents inform the senate thereof.

And then the house adjourned.

## THURSDAY, NOVEMBER 29, 1821.

A message from the senate by Mr. White:

*Mr. Speaker*,

The senate have passed a bill entitled an act concerning the qualification of the President and Directors of the Bank of Kentucky on the part of the state, in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Yantis from the select committee to whom was referred, a bill from the senate entitled, an act to amend the act altering the mode of taking in the lists of taxable property, reported the same without amendment.

*Ordered*, That the said bill be read a third time to-morrow.

Mr. Worthington read and laid on the table the following resolution:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That they view with great pleasure the success of the South American Patriots, and approve highly of the magnanimous efforts of the members in Congress who advocated the outfit of a minister to Buenos Ayres, which in fact would have been an acknowledgment on the part of the United States, of the liberty of a great continent.

*Ordered*, That the committee of the whole house on the state of the commonwealth, be discharged from the further consideration of a bill to alter the modeof summoning petit jurors; and that the same be placed in the orders of the day.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Worthington—1. A bill concerning champrety and maintenance.

By Mr. Murray—2. A bill for the establishment of a literary fund, and for other purposes.

By Mr. Kincheloe—3. A bill to legalize the proceedings of the county court of Nelson, at their November term, 1821.

By mr. Johnson—4. A bill to ascertain and mark the division line between the counties of Grant, Boone and Gallatin.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the 3d and 4th bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass, and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Kincheloe carry the said bills to the senate and request their concurrence.

A message from the senate by Mr. Given:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act to add a part of Logan county to the county of Todd.

And then he withdrew.

Mr. Worthington from the majority on the vote by which a bill to repeal the charter of the Bank of Kentucky and for other purposes, was postponed until the first day of June next, moved for a reconsideration of said vote.

And the question being taken on granting a reconsideration, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Allen and Worthington, were as follows, to wit:

Yeas—Messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Brents, Bruce, A. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Craig, Cravens, Crawford, Davis, Desha, Duncan, Eaves, Gaither, Gordon, Green, Griffith, M. Hardin, Herald, Inglish, Jackman, King, Litton, Lecompte, Lockett, Luckett, Lynch, B. Mason, J. Mason, May, M'Clanahan, H. M'Elroy, M'Cracken, Miller, Mullens, Munford, Murray, Noland, Owsley, O'Bannon, Patterson, Pendleton, Rudd, Selby, Shannon, Slack, Slaughter, Stone of Wayne, Talbot, J. Taylor, Wiley, Witherspoon and Worthington—59.

Nays—mr. Speaker, messrs. Barnett, Bradford, Brooking, Buford, W. O. Butler, Cosby, Cowan, Dejarnett, Fletcher, J. G. Hardin, Howard, Johnson, Logan, Love, M'Connell, M'Millan, Moore, Payne, Pearcy, Sandford, Smith, Speed, Stone of Madison, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Yancey, Yantis and Younger—33.

The motion for postponement being withdrawn, the bill was laid on the table.

Mr. Cowan from the select committee to whom was referred, a bill making appropriations for the use of Transylvania University and the Centre College of Kentucky, reported the same without amendment.

*Ordered*, That the said bill be engrossed and read a third time to morrow.

Mr. Todd from the select committee to whom was referred, a bill to amend an act concerning a house of public worship in the town of Frankfort, reported the same with an amendment, which being twice read was concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time to morrow.

On motion,

*Ordered*, That messrs. A. Butler, Fletcher, Shannon, Pope, Yancey, Calhoun and Allen be added to the committee to whom was referred, a bill from the senate entitled, an act to amend the act entitled, an act to regulate endorsements on executions.

Mr. Alexander from the majority on the vote by which a bill to repeal in part the act classing tobacco was rejected, moved for a reconsideration of said vote.

And the question being taken on reconsidering said vote, it was decided in the negative, and so the said motion was rejected.

The house took up the amendments proposed by the senate, upon concurring in those proposed by this house to a bill from the senate entitled, an act for the relief of certain sheriffs.

Which being twice read were concurred in.

*Ordered*, That Mr. Wickliffe inform the senate thereof.

The house took up the amendments proposed by the senate, to bills from this house of the following titles: An act for the benefit of the clerk of the circuit and county courts of Cumberland; an act for the benefit of Jesse Walker and others; and an act for the benefit of Samuel Simpson and others.

Which being twice read were concurred in, with amendments to the amendments proposed by the senate to the first bill.

*Ordered*, That Mr. Wickliffe inform the senate thereof, and request their concurrence in said amendments.

A bill from the senate entitled, an act to change the March term of the Madison circuit court, was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bill being dispensed with,

*Resolved*, That the said bill do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Stone inform the senate thereof.

A bill to authorise the county court of Bracken to build a poor house, was read a second time, amended and ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be amended to read "an act authorising the county courts of Bracken, Mason and Fayette, to build a poor house.

*Ordered*, That Mr. Rudd carry the said bill to the senate and request their concurrence.

The amendment proposed by the select committee to a bill to amend the act for surveying the military claims west of the Tennessee river, approved December 26th, 1820, was twice read and concurred in.

*Ordered*, That the said bill as amended be re-committed to a select committee of messrs. Brents, Wickliffe, Logan, Pope, Worthington, R. C. Anderson, Speed and Shannon.

And then the house adjourned.

## FRIDAY, NOVEMBER 30, 1821.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act declaring Big Barren river further navigable; an act authorising an appropriation of money to the president and managers of the Louisville Hospital: an act for the relief of Nancy Garth; an act concerning the towns of Madisonville and North Middleton; an act for the divorce of William Spangler, Samuel Campbell and Elizabeth Wells; an act for the benefit of Jesse Walker; an act to amend the act more effectually to suppress the practice of duelling; an act for the relief of the sheriffs of Green and Monroe counties; an act to remove the seat of justice of Owen county; an act for the benefit

of the sheriff of Caldwell county; an act authorising the keepers of Turnpike gates to take up strays; an act for the benefit of the heirs of Patrick H. Rice; an act authorising the keeper of the penitentiary to build a smokehouse; and an act to legalize the proceedings of the Floyd county court; and an enrolled resolution in relation to the conduct which ought to be observed by Judges on certain occasions.

And had found the same truly enrolled.

Whereupon, the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. W. O. Butler presented the petition of the heirs of Martin Hawkins, deceased, praying that certain compromises made between them relative to certain property which has been the subject of controversy between them, may be legalized and confirmed.

Mr. Taylor presented the petition of Ann Andrews, praying that the sum of one hundred dollars, advanced by her deceased husband for the purpose of building the state house, may be refunded to her.

And Mr. R. C. Anderson presented the petition of sundry citizens of Louisville, praying an incorporation of said town with the towns of Shippingport and Portland.

Which petitions were severally received, read and referred; the first to the committee for courts of justice; the second to a select committee of messrs. B. Taylor, Todd, Logan, Allen and Warfield; and the third to a select committee of messrs. Luckett, White, Anderson and Logan, giving said committees leave to report thereon by bills or otherwise.

The Speaker laid before the house a letter from James D. Breckinridge, Esq. President of the Branch Bank of the Commonwealth at Louisville, announcing a resignation of his office, which was received and read.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to alter and fix the terms of the Jefferson circuit court, and for other purposes—in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Yancey from the committee appointed for that purpose, reported a bill to reduce the public revenue.

Which was received and read the first time.

It was then moved and seconded, to postpone the further consideration of said bill until the first day of March next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Dejarnett and Cockerill were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, Allen, R. C. Anderson, Barnett, Brents, Bruce, A. Butler, W. O. Butler, Calhoun, Clark, Cosby, Cowan, Craig, Jackman, Johnson, Lockett, Logan, Love, Luckett, May, M'Connell, Moore, Murray, Sandford, Shannon, White, Wickliffe, Witherspoon and Yantis—30.

Nays—messrs. J. S. Anderson, Bradford, Brooking, Buford, Catlett, Cockerill, Cogswell, Cravens, Crawford, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, King, Litton, Lecompte, Lynch, B. Mason, J. Mason, M'Clanahan, H. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Rudd, Selby, Slack, Slaughter, Smith, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Warfield, Wiley, Worthington, Yancey and Younger—58.

The said bill was then ordered to be read a second time.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By mr. Lockett—1. A bill to restrict the county courts in laying their levies and the mode of letting their public buildings.

By mr. May—2. A bill to regulate the mode of granting the vacant lands of this commonwealth.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the first bill being dispensed with, the same was ordered to be engrossed and read a third time to-morrow.

Mr. Brents from the select committee to whom was referred, a bill from the senate entitled, an act to amend the act entitled, an act to regulate endorsements on executions, reported the same with an amendment.

It was then moved and seconded, to attach to said amendment the following additional section, viz:

*And be it further enacted*, That nothing in this act shall be so construed, as to extend to replevy bonds that have been replevied for two years.

And the question being taken on agreeing to the said amendment, it was decided in the negative.

The yeas and nays being required thereon by messrs. Inglish and Catlett were as follows:

Yeas—messrs. Barnett, Catlett, Desha, Lockett, H. M'Elroy, Slack, Speed, Stone of Madison and Todd—9.

Nays—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Calhoun, Clark, Cockerill, Cogswell, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Hughes, Inglish, Jackman, Johnson, King, Litton, Lecompte, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, M'Millan, M'Cracken, Miller, Moore, Mullens, Munford, Murray, Noland, Owsley, O'Bannon, Patterson, Payne, Pearcy, Pendleton, Pope, Rudd, Sandford, Selby, Shannon, Slaughter, Smith, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Warfield, White, Wiley, Witherspoon, Worthington, Yancey, Yantis and Younger—83.

The amendment reported by the committee was then concurred in, and the said bill ordered to be read a third time as amended, on to-morrow.

Mr. Cowan from the select committee to whom was referred, a bill to amend the execution law, reported the same with an amendment.

*Ordered*, That the said bill and amendment be laid on the table.

Mr. Wickliffe read and laid on the table the following resolutions:

*Resolved by the Senate and House of Representatives, of the state of Kentucky*, That a passage of a general Bankrupt Law by the Congress of the United States, suitable to all classes of society and applicable to the condition of the country, would be sound policy.

*Resolved*, That our senators in Congress be instructed, and our representatives be requested, to use their exertions to promote the passage of such a law.

*Resolved*, That the Governor transmit to each of our senators and representatives in Congress, a copy of the foregoing resolutions.

A message from the Governor by mr. Anderson:

*Mr. Speaker*,

The governor did on this day, approve and sign enrolled bills which originated in this house, of the following titles:

An act concerning the towns of Madisonville and North Middleton.

An act for the relief of the sheriffs of Green and Monroe counties.

An act for the benefit of Jesse Walker.

An act for the divorce of Wm. Spangler, Samuel Campbell and Elizabeth Wells.

An act to amend the act more effectually to suppress the practice of duelling.

An act declaring Big Barren river further navigable.

An act for the relief of Nancy Garth.

An act authorising an appropriation of money to the president and managers of the Louisville Hospital.

Resolutions in relation to the conduct which ought to be observed by Judges on certain occasions.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

The Speaker laid before this house a letter from John Harvie, Esq. President of the Bank of Kentucky, covering sundry documents, made pursuant to a resolution of this house on the 24th instant, which was read as follows, viz:

BANK OF KENTUCKY,

NOVEMBER 30, 1821.

*Sir*—In obedience to a resolution of the House of Representatives on the 27th inst. I herewith lay before that body copies of the several orders taken by the board of directors, together with the votes for and against, as far as they are furnished by the journals, upon the several heads contained in that resolution.

Although it does not properly come within the scope of the resolution, yet I have also communicated a resolution proposed by Mr. Foster, upon the subject of the receipt of the paper of the Bank of the Commonwealth of Kentucky, in all payments to this bank. This step is taken because there appears to be no disposition on the part of any member of the board, to disguise the part he acted, relative to the reception of that paper.

Presuming that the house of representatives was only desirous of ascertaining the sense of the board, and of the members respectively, upon the subject of taking lands mortgaged for the payment of debts due to the corporation, I have furnished copies of such orders only, as *indicate* that

*sense*, without descending to a recital of the details of negotiation carried on with persons who were proposing to extinguish their debts, by a payment of the mortgaged premises.

It has not been the practice to enter on the journals, propositions which are rejected, unless the yeas and nays are required—consequently, many propositions discussed by the board, are not preserved on record.

I am, Dear Sir,
Very Respectfully,
J. HARVIE, Pres't.

*The Speaker of the House of Representatives.*

## BANK OF KENTUCKY.

At a meeting of the board of directors on Friday, April 13th, 1821.

*Present*—John Harvie, president; John Brown, J. C. Breckinridge, Peter Dudley, A. J. Mitchell, John M'Kinney, Jr. C. Miles, Achilles Sneed, Ben. Taylor and Daniel Weisiger, directors.

*Resolved*, That the president be requested to have the following endorsement made upon all executions issued or to be issued in favor of the bank, upon judgments now obtained, "That either notes on the Bank of Kentucky or its branches, or notes on the Bank of the Commonwealth of Kentucky or its branches, may be received by the officer, in discharge of the whole of this execution;" and that a discretionary privilege to make a similar endorsement on like judgments and executions, be extended to the several branches of this bank.

Yeas—Messrs. Harvie, Dudley, Mitchell, M'Kinney, Sneed, Taylor and Weisiger.

Nays—Messrs. Brown, Breckenridge and Miles.

At a meeting of the board of directors on Tuesday, May 1, 1821.

*Present*—John Harvie, president; Robert Alexander, John Brown, J. C. Breckinridge, Peter Dudley, John M. Foster, John M'Kinney, Jr. Alexander J. Mitchell, Charles Miles, Achilles Sneed, Isham Talbot and Daniel Weisiger, directors.

*Resolved*, That it is expedient for the Bank of Kentucky and its branches, to receive to an amount hereafter to be agreed on, notes of the Bank of the Commonwealth of Kentucky and its branches.

Yeas—messrs. Harvie, Alexander, Dudley, Foster, M'. Kinney, Mitchell, Sneed and Weisiger.

Nays—messrs. Brown, Breckinridge, Miles and Talbot.

The following resolution was then offered:

*Resolved*, That the branches have permission to receive one hundred and fifty thousand dollars of the paper of the Bank of the Commonwealth, in payment of discounts and calls, to be apportioned among them according to the amount of their bills receivable; and that the cashier of this bank be directed to receive that paper in payment of calls and discounts, until the further order of this board.

Yeas—messrs. Harvie, Dudley, Foster, M'Kinney, Mitchell, Sneed and Weisiger.

Nays—messrs. Brown, Breckinridge, Miles, Alexander and Talbot.

The following resolution was then offered:

*Resolved*, That the foregoing resolution shall take effect only on the condition that the directory of the Bank of the Commonwealth shall agree, that the several amounts for which she may be authorised to call on the Bank of Kentucky, shall remain in the latter institution, to be discharged by the paper of that bank, which shall be collected under the several orders of this board; and that they shall agree at all times, to exchange such paper of the Bank of Kentucky as they may receive, for their own paper, received by the Bank of Kentucky.

The above resolution was adopted without the yeas and nays being called for.

*Ordered*, That the president be authorised to inform the commissioners appointed to sell Sanders' property, that the paper of the Bank of the Commonwealth of Kentucky, will be received in payment.

Passed without the yeas and nays being called for.

At a meeting of the board of directors on Friday the 11th May, 1821.

*Present*—John Harvie, president; John Brown, Jos. C. Breckinridge, J. M. Foster, Achilles Sneed, Isham Talbot, Daniel Weisiger and Peter Dudley, directors.

Mr. Foster laid before the board the following resolution:

*Resolved*, That the Bank of Kentucky will receive the paper of the Bank of the Commonwealth, in payment of all debts due this institution; and that the branches of this bank be recommended to do the same, until the further order of this board.

Yea—Mr. Foster.

Nays—messrs. Harvie, Brown, Breckinridge, Dudley, Sneed, Talbot and Weisiger.

Mr. Dudley offered the following resolutions:

*Resolved*, That in any arrangement made by the president and directors of the Bank of Kentucky with the president and directors of the Bank of the Commonwealth of Kentucky, the former desire it only on principles of reciprocity and a just regard to the interests of the institution.

Which was adopted without the yeas and nays being required.

*Resolved*, That this board will instruct its cashier to receive the notes of the Bank of the Commonwealth of Kentucky and its branches in the payment of debts generally, provided the president and directors of the Bank of the Commonwealth of Kentucky shall agree, that the several amounts for which they may be authorised to call on the Bank of Kentucky, shall be held up to be discharged in the paper of that institution, which shall be collected under the several orders of this board: And provided, also, that this board expressly reserves to itself the right of prescribing or recommending to its branches such course as it may think best calculated to promote the interest of the institution, in relation to the receipt of that paper.

Yeas—messrs. Harvie, Dudley, Foster, Sneed, Talbot and Weisiger.

Nays—messrs. Brown and Breckinridge.

At a meeting of the board of directors, on Friday evening, May 25th, 1821.

*Present*—John Harvie, president; Peter Dudley, Alexander J. Mitchell, John M'Kinney, jun. Daniel Weisiger, Achilles Sneed, J. Cabell Breckinridge and Richard Taylor, jun. directors.

*Resolved*, That this board will permit the branches of this institution, at their discretion, to receive in payment a due proportion, according to capital, of the sum of one hundred and fifty thousand dollars, in the paper of the Bank of the Commonwealth of Kentucky; which proportion is not to be exceeded upon any account whatsoever, save that of payments upon executions endorsed in conformity to the orders of this board.

*And it is also resolved*, That the department or departments which shall collect the paper of that bank to the extent herein prescribed, be directed to suspend the further re-

ceipt thereof, until the amount on hand is reduced below that limit, by disbursements or otherwise.

Which was adopted without the yeas and nays being called.

Mr. Dudley offered the following resolution:

*Resolved*, That the cashier of this bank be instructed to receive in payment, notes of the Bank of the Commonwealth of Kentucky and its branches, until the further order of this board.

Which passed without the yeas and nays being called for.

At a meeting of the board of directors, on Monday 18th June 1821.

*Present*—John Harvie, president; Robert Alexander, John M'Kinney, jun. Richard Taylor, jun. John Brown, Peter Dudley, Daniel Weisiger, J. Cabell Breckinridge and Alexander J. Mitchell, directors.

*Resolved*, That when any branch of this bank shall have received in payment of discount or notes, or in any other manner than in discharge of executions endorsed by authority of this board, so as to make them payable in the paper of the Bank of the Commonwealth, the amount of that paper which is prescribed for it by the resolution of this board, of the 25th ultimo, it shall thereafter cease to receive such paper, until the further order of this board.

Yeas—Messrs. Harvie, Alexander, Brown, Breckinridge and Weisiger.

Nays—Messrs. Dudley, M'Kinney and Taylor.

At the meeting of a board of directors, on 23d June 1821.

*Present*—John Harvie, president; Robert Alexander, John Brown, John M. Foster, J. C. Breckinridge, Peter Dudley, Charles Miles, Achilles Sneed, Isham Talbot, Richard Taylor, jun. and Daniel Weisiger, directors.

*Resolved*, That the essential and vital interests of this institution, require the adoption of the measures best calculated to enable it to resume specie payments; and that the most prominent means which presents itself for the attainment of this desirable object, is a reduction of the amount of its notes in circulation, to such extent as may be found requisite, by the aid of other corresponding measures, to commence the redemption of its notes by the payment of specie, when demanded by the holders.

*Resolved*, That with the view of effecting the desired curtailment, steady, regular and permanent calls, to commence

from and after the first day of October next, be made, equally and impartially on all the debtors of this institution, (its own officers excepted,) of four per cent. at the expiration of each and every sixty days; and that such calls be continued and enforced by all means within the power of the institution, until in the opinion of the board a sufficient reduction of its notes in circulation be effected.

Yeas—Messrs. Harvie, Alexander, Brown, Breckinridge, Dudley, Foster, Miles and Talbot.

Nays—Messrs. Sneed, Taylor and Weisiger.

The above vote was on the first resolution; on the second resolution.

Yeas—Messrs. Harvie, Alexander, Brown, Breckinridge, Dudley, Miles and Talbot.

Nays—Messrs. Foster, Sneed, Taylor and Weisiger.

At a meeting of the board of directors, on Friday, March 23d, 1821.

*Present*—John Harvie, president; Robert Alexander, Alexander J. Mitchell, John M'Kinney, jun. Benjamin Taylor, Daniel Weisiger, Richard Taylor, jun. Achilles Sneed, John Brown and John M. Foster, directors.

Mr. M'Kinney offered the following resolution:

*Resolved*, That this bank will become the purchaser of real estate, provided it is the only means of securing the payment of debts due this institution.

Mr. Weisiger declined voting. The above resolution was adopted without the yeas and nays being called for.

*Resolved*, That this board will purchase, at prices to be agreed on by mutual agreement, the property pledged by J. J. Marshall to trustees, for the purpose of paying certain debts to the Bank of Kentucky.

Yeas—Messrs. Harvie, Alexander Mitchell, Foster, R. Taylor, jun. Weisiger, M'Kinney, Sneed and B. Taylor.

Nays—Messrs. Brown and Breckinridge.

At a meeting of the board of directors, on Monday, June 18th, 1821.

*Present*—John Harvie, president; John Brown, J. C. Breckinridge, Robert Alexander, Daniel Weisiger, Peter Dudley, John M'Kinney, jun. Richard Taylor, jun. and Alexander J. Mitchell, directors.

*Resolved*, That this board will purchase, at prices to be agreed on by mutual agreement, the property pledged by George Adams to trustees, for the purpose of paying certain

debts to the Bank of Kentucky; and for the purpose of forming a correct estimate of the value of said property,

*Ordered*, That Messrs. Dudley, Mitchell, Sneed and R. Taylor, jun. or any two of them, be appointed a committee to make such estimate, and that they report to this board.

The above resolution was adopted without the yeas and nays being called for.

At a meeting of the board of directors, on Monday evening, October 15th, 1821.

*Present*—John Harvie, president; Alexander J. Mitchell, John M'Kinney, jun. John M. Foster, John Brown, Isham Talbot, Daniel Weisiger and Achilles Sneed, directors.

*Resolved*, That a committee be appointed to confer with Charles S. Todd, on the subject of his proposition to this board; and that the committee be authorised, in conjunction with the said Todd, to appoint commissioners to determine the value of the property offered, provided, in the opinion of such committee, the property offered by the said Todd be deemed sufficient for the discharge of the debts referred to.

The above resolution was adopted without the yeas and nays being called for.

At a meeting of the board of directors, on Thursday evening, October 25th, 1821.

*Present*—John Harvie, president; Isham Talbot, Peter Dudley, John Brown, Achilles Sneed, J. C. Breckinridge, Daniel Weisiger, John M. Foster and John M'Kinney, jun. directors.

*Ordered*, That the agreement entered into by a committee of this board, with C. S. Todd, for the purpose of valuing certain property to be received of him in payment of a debt he owes this institution, be approved.

The above was adopted without the yeas and nays being called for.

*Ordered*, That the public printers forthwith print 150 copies of said letter and report, for the use of the members of this house.

A bill from the senate entitled, an act to alter and fix the terms of the Jefferson circuit court and for other purposes, was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision, and second and third readings of said bill being dispensed with,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. R. C. Anderson, inform the senate thereof.

A message from the senate by Mr. Jones:

*Mr. Speaker*,

The senate have passed a bill entitled, an act providing for the repairing and improving the Penitentiary, in which bill the request they concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Crutcher:

*Mr. Speaker*,

The senate concur in the amendment proposed by this house, to a bill from the senate entitled, an act to increase and regulate the judicial districts.

And then he withdrew.

A message from the senate by Mr. Lee, their secretary;

*Mr. Speaker*,

The senate have received official information, that the governor did on this day, approve and sign enrolled bills which originated in the senate, of the following titles:

An act to remove the seat of justice of Owen county.

An act for the benefit of the sheriff of Caldwell county.

An act to legalize the proceedings of the Floyd county court.

An act authorising the keeper of the penitentiary to build a smokehouse.

An act for the benefit of the heirs of Patrick H. Rice.

An act authorising the keepers of turnpike gates to take up strays.

They concur in the amendment proposed by this house to a bill from that entitled, an act to prevent horse racing on the public highways: They have passed a bill which originated in this house entitled, an act to regulate appeals from justices of the peace to the county courts; and they disagreee to a bill which originated in this house entitled, an act to regulate appeals from justices of the peace in this commonwealth.

And then he withdrew.

Mr. Brents from the select committee to whom was referred, a bill to amend an act for surveying the military claims west of the Tennessee river, approved December 26th, 1820,

reported the same with an amendment, which being twice read was disagreed to.

It was then moved and seconded further to amend said bill by attaching thereto the following proviso:

*Provided, however*, That no patent shall issue on any of the claims herein mentioned, until after the first day of January, 1823.

And the question being taken on adopting said amendment, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Shannon and C. H. Taylor, were as follows:

Yeas—Messrs. Alexander, Allen, Barnett, Bradford, Brents, Bruce, Buford, Cockerill, Cogswell, Cowan, Craig, Cravens, Desha, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, King, Litton, Lecompte, Lockett, Logan, Love, Lynch, B. Mason, J. Mason, May, M'Clanahan, H. M'Elroy, Miller, Mullens, Munford, Murray, Owsley, Patterson, Pearcy, Pendleton, Pope, Rudd, Sandford, Selby, Slack, Slaughter, Stone of Madison, B. Taylor, J. Taylor, Warfield, White, Wiley, Witherspoon, Worthington, Yancey, Yantis and Younger—62.

Nays—Mr. Speaker, messrs. R. C. Anderson, A. Butler, W. O. Butler, Calhoun, Catlett, Davis, Dejarnett, Duncan, M'Millan, Noland, O'Bannon, Payne, Shannon, Smith, Speed, Stone of Wayne, Talbot, C. H. Taylor and Wickliffe—20.

*Ordered*, That the said bill as amended be engrossed and read a third time to-morrow.

And then the house adjourned.

## SATURDAY, DECEMBER 1, 1821.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act for the relief of certain sheriffs; an act to increase and regulate the judicial districts; an act to prevent horse racing on the public highways; an act to change the March terms of the Madison circuit court; and an act to alter and fix the terms of the Jefferson circuit court and for other purposes.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

A message from the senate by Mr. Lackey:

*Mr. Speaker,*

The senate have passed a bill entitled, an act for the benefit of Polly Power—in which bill they request the concurrence of this house.

And then he withdrew.

The Speaker laid before the house the memorial of Wm. Hunter and others of the town of Frankfort, praying that the money advanced by them for the purpose of rebuilding the state house, may be refunded.

Mr. Murray presented the petition of Polly Ray, praying a divorce from her husband, Robert Ray.

Also, the petition of Bridget Howard, praying a divorce from her husband, William Howard.

And Mr. King presented the petition of sundry citizens of Cumberland county, praying that a law may pass remitting to Sarah Anderson the balance of the state price due on fifty acres of land, on which she is settled in said county, and that a grant may issue to her for the same.

Which petitions were severally received, read and referred; the first to the committee of propositions and grievances; the second and third to the committee of religion; and the fourth to a select committee of messrs. King, Owsley, Yantis, Love and J. G. Hardin, giving said committee leave to report thereon by bill or otherwise.

Mr. Payne from the committee of religion, made the following report, viz:

The committee of religion have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to-wit:

*Resolved*, That the petition of Elizabeth Carstarphen, representing that her late husband, Robert Carstarphen, abandoned her without any just cause, has obtained a divorce from the legislature, & praying that she may also be divorced, her property secured to her, and her maiden name restored, *is reasonable.*

*Resolved*, That the petition of Samuel Howard, representing that his wife, Nancy, after their marriage, was guilty of immoral conduct, so much so that he could not live with her, and she has married another man, and praying for a divorce, *is reasonable.*

*Resolved*, That the petition of Charlotte Harrison, representing that her husband, Obadiah R Harrison, shortly after their marriage abandoned her, went to the state of Ohio, and married another woman, and praying for a divorce, *is reasonable.*

*Resolved*, That the petition of Nancy Fulcher, representing that her husband, Wm. F. Fulcher, abandoned her in October, 1819, and is living in a state of adultery with another woman, and praying for a divorce, *is reasonable*.

*Resolved*, That the petition of Abijah Hightower, representing that his wife, Anasha has abandoned him, and is living in another state with another man, and praying for a divorce, *be rejected*.

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the 1st, 2d, 3d and 4th resolutions.

Leave was given to bring in the following bills:

On the motion of MR. BRENTS—1. A bill to regulate the times of holding circuit courts in this commonwealth.

On the motion of MR. SMITH—2. A bill for the benefit of Champ Mullens of Rockcastle county.

On the motion of MR. W. O. BUTLER—3. A bill for the relief of the county court of Gallatin.

On the motion of MR. BRUCE—4. a Aill for the benefit of Richard Clark and Samuel Curswell of the county of Lewis.

On the motion of MR. PEARCY—5. A bill for the relief of the sheriff of Shelby couny.

On the motion of MR. COSBY—6. A bill for the benefit of the widow and heirs of John Willett, deceased.

On the motion of MR. NOLAND—7. A bill for the benefit of Joseph Crawford of Estill county.

On the motion of MR. M. HARDIN—8. A bill for the benefit of Joel Morrison.

On the motion of MR. LOCKETT—9. A bill to authorise the running and marking the line between the counties of Henderson and Union.

On the motion of MR. COCKERILL—10. A bill for the benefit of Burwell Temple.

And on the motion of MR. LYNCH—11. A bill altering the mode of laying the county levy.

Messrs. Brents, Murray, Cosby, Yantis, Calhoun, Clark, Cowan, Yancey and Fletcher, were appointed a committee to prepare and bring in the first; messrs. Smith, Love and Craig, the second; messrs. W. O. Butler, Johnson and Bradford, the third: messrs. Bruce, Fletcher and Griffith, the fourth; messrs. Pearby, Logan and Younger, the fifth; messrs. Cosby, Pope, S. M'Elroy and Wickliffe, the sixth; messrs. Noland, Fletcher and Yantis, the 7th; messrs. M. Hardin, Miller, Kincheloe and Cosby, the eighth; messrs. Lockett, H. M'Elroy and O'Bannon, the ninth; messrs.

Cockerill, Yancey, Cravens and Eaves, the tenth; and messrs. Lynch, Clark, Craig and Slaughter, the eleventh.

The following bills were reported from the several committees appointed to prepare and bring in the same:

By Mr. Howard from the committee of claims—1. A bill to amend an act appointing persons to view a way for a road from Danville to the Tennessee line.

By Mr. Howard—2. A bill to amend an act extending the charter of the Bank of Kentucky.

And 3. A bill for the benefit of the heirs of James White deceased.

By Mr. B. Taylor—4. A bill to amend the acts relating to the penitentiary.

By Mr. Smith—5. A bill for the benefit of Champ Mullens.

And by Mr. Brooking—6. A bill to amend the laws allowing compensation to venire men.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 6th bill being dispensed with, the said bill was committed to a select committee of messrs. Wickliffe, Murray, Clark and Brooking.

*Ordered*, That the public printers print 150 copies of the second bill, for the use of the members of this house.

Bills from the senate of the following titles, viz: An act concerning the qualifications of the president and directors of the Bank of Kentucky on the part of the state; and 2. an act for the benefit of Polly Power,

Were severally read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the said bills being dispensed with, the said bills were ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision, and third reading of the latter bill being dispensed with,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. May inform the senate thereof.

Mr. Pope from the committee to whom was referred, so much of the governor's message as relates to the laws concerning occupying claimants of land, made the following report, viz:

THE committee to whom was referred that part of the governor's message which relates to the laws concerning occupying claimants of land, and the late decision of the supreme court of the United States thereon, beg leave to report:

That it appears to your committee, that at the last term of the supreme court of the United States, in the case of *John Green*, plaintiff, against *Richard Biddle*, defendant, an opinion was pronounced by the said court, in which the acts of this commonwealth, passed on the 27th day of February 1797, and of the 31st day of January 1812, concerning occupying claimants of land, are declared to be unconstitutional and void, upon the ground, that the said acts are violations of the 7th article of the compact between this state and the state of Virginia, that compact being a part of the constitution of Kentucky.

These laws have long since received the sanction of the highest judicial tribunals of this commonwealth, and have governed the proceedings of the superior courts in all cases coming within their provisions. They have become the rule and basis of numerous contracts and compromises, and in faith of which the lands of the state have been improved and cultivated. Virginia has not complained of them as violations of the compact; but, on the contrary, has long acquiesced in their enforcement.

Your committee have ascertained, that no counsel appeared in the supreme court for Biddle, or in support of the laws in question; and they have good reason to believe, from information received, that Biddle had no interest in the case; that it had been long before settled between the parties; and that Biddle purchased the land in controversy some years before the argument of this case in the supreme court. The committee are satisfied, that the parties have no interest in the case decided, and that the object of those concerned in its prosecution and management, was to obtain from the court a decision against the validity of those laws.

This opinion of the court has been suspended until the next term, for further consideration and argument. It will, if confirmed, not only implicate the character of the state, in having violated her solemn engagements with the parent state, but must deeply affect a large portion of our most meritorious citizens.

Your committee are aware of the delicacy and caution with which the decisions of the judicial tribunals should be

questioned by the legislature, especially in cases involving the rights of individuals. They feel, however, in a great degree relieved from any embarrassment on this point, from a conviction of the fact, that the case of Green and Biddle, if not in its origin, is at this time not a real, but fictitious one.

The people of the several states, and of the United States, have distributed the powers of government among different departments or bodies of magistracy, and their faithful and harmonious co operation is essential to the peace, safety and freedom of the people. They mutually check and aid each other. Mutual forbearance and respect are necessary and proper. Allowances are to be made for those ordinary errors which are incident to men in every situation. Neither department should question or arrest the acts of another for slight causes. But forbearance and acquiescence have their limits. If the legislature pass an act clearly unconstitutional, and the case ought to be a clear one, the judiciary may refuse to carry it into effect. The people have not made the judges a board of censors, to correct legislative folly and error, but to secure to the citizens a fair and impartial administration of justice, according to the laws. It is equally the duty of the legislature and the judges, to regard the constitution. Those selected by the people to exercise legislative power, are bound to keep within the pale of the constitution, and are responsible to the people for a violation. They must construe the constitution according to their best judgments; and after they have given a construction, and passed a law, the case ought to be a strong one, to authorise the court to defeat its operation. And if the judiciary should transcend its legitimate limits, and impair the prerogatives of the legislature, on subjects of vital importance, it will be the duty of the legislature to interfere. Mutual forbearance preserves harmony; and cautious, discreet resistance is necessary to keep each department within its proper sphere of action.

On a question of such vital importance to the good people of this commonwealth, your committee deem it the duty of the legislature to maintain the validity of their laws, in a manner respectful to the supreme court of the nation, and regardful of the dignity of the state and interests of the people.

Your committee, after the most mature consideration, are unanimously of opinion, that the acts of 1797 and 1812, concerning occupying claimants of land, are constitutional and

valid, and founded in justice and sound policy. The committee have thought it their duty to examine, in a concise manner, the principles and reasoning of the court, in the opinion referred to, and the justice and policy of the laws.

The 7th article of the compact, which is relied on by the court, is in the following words: "That all private rights and interests of land within the said district, derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state."

The court, in their opinion, say, that if the only intent of this article was to preserve to claimants of land a determination of their titles by the laws under which they were acquired, it is a mere nullity; because, they say, by the general principles of law, titles to real estate can be determined only by the laws of the state under which they were derived; and that a title, good by those laws, cannot be disregarded, but by a departure from the first principles of justice. They therefore suppose the words *rights and interests of lands*, mean more, or something else, than they fairly import or ever have been understood to imply.

The position assumed by the court, that every civilized nation ought to regard justice, will not be controverted. The only inference drawn from it by the court, is, that as Virginia must have presumed that Kentucky would have regarded justice, the stipulation was unnecessary. However this sort of confidence may regulate the conduct of friends and acquaintances in private life, it does not seem to have been entirely relied on by independent nations, in their compacts with each other. It is believed, that in most treaties of cession between them, the ceding party has not trusted exclusively to the influence of the general principles of justice, but has required an express stipulation in favor of the people of the ceded territory. The 3d article of the treaty between the United States and France, by which the latter ceded the territory of Louisiana to the former, furnishes an example of this kind. It is done from abundant caution, and to impose higher and more definite obligations than are to be found in the moral code. Such, in fact, were no doubt the considerations which induced Virginia to insert the 7th article. The plain and common sense meaning of it, as it has been understood by the parties and the people generally, is, that the private rights and interests of land derived from the laws of Virginia, should be valid and secure under Kentucky; and that the laws of Virginia were to furnish the

rule for the decision of those rights and interests. Such has been the construction given to this article of the compact, by the courts here; and the opinion and reasoning of our court of appeals on the constitutionality of our occupying claimant laws, in the case of Fowler against Halbert, reported in the 4th volume of Bibb's Reports, is believed to be correct and unanswerable.

To use the language of the supreme court, "it would be a mockery of common sense and the principles of equal justice, to suppose, that this article was intended not only to guarantee the rights of claimants under the laws of Virginia, but to exempt them from the obligations, burdens and municipal regulations to which all other claimants were liable. The principle of equal justice has been strictly observed, and our laws operate on all, as well those who claim under the laws of Virginia, as those who derive titles under the laws of Kentucky; and if the welfare and policy of the state required their passage, no class of claimants have any just ground of complaint. Of that policy, it was the exclusive prerogative of Kentucky to judge; nor can the owner of property within her jurisdiction and under her protection, rightfully claim an exemption from its operation.

That Virginia had, in this compact, an eye to the principle of equality, and nothing more, is evident from the 8th article, in which she stipulated for an equality of taxation; for it yielded an equivalent, by reciprocating that equality in regard to the lands of Kentuckians situate in Virginia. The last branch of this article is more conclusive on the subject, by which it is expressly stipulated, "that a neglect of cultivation or improvement of any land within either the proposed state or this commonwealth, belonging to non-residents, citizens of the other, shall not subject such non-residents to forfeiture or other penalty, within the term of six years after the admission of said state into the federal Union." Virginia was aware of the quantity of unsettled lands in Kentucky, and of the necessity and policy of having them settled. She was aware, also, of the power of Kentucky to coerce their improvement and cultivation, and stipulates for her citizens an exemption from it for the term of six years only; and yet the supreme court imply, in the 7th article, a perpetual exemption.

Your committee would here beg leave to remind the supreme court of one of the best settled rules of construction known to jurists, "that every special limitation upon the general and common laws and rights of a people, is to be construed

strictly;" and in no case ought that rule to be applied with more rigor, than to a limitation in derogation of the general powers and sovereignty of a government.

This general view would seem to be sufficient to silence all doubt as to the true intent and meaning of the 7th article of the compact; but it may be proper to examine the literal import of the words upon which the court rely.—They seem to place much stress on the omission of the word *title*, in the compact, and to draw a distinction between the meaning of the words *rights and interests, and titles*; but your committee cannot perceive the force of the argument, or the effect of the distinction attempted by the court. The words, rights and interests, as used in the compact, admit of no ambiguity. The word, right, in the language of jurists, means a good or perfect title—in the compact it means, that kind of right or title which is derived from the laws of Virginia. The word, interest, when applied to land, is generally understood to import an inchoate, imperfect, or partial right. The land laws of Virginia ought to furnish the best exposition in relation to the sense in which it should be understood in the compact. The word, right, is applied in the land law to both imperfect and complete title. Settlement rights & pre-emption rights are mentioned; & in the provision respecting caveats, the word, right, is used in reference to a title by entry or patent, because either will authorise a caveat. The words, right and title, in common parlance in statutes and law writers, are often used as synonimous terms. There are various gradations of title; but in strictness, a man cannot be said to have a right to property, who has not a good title; and the omission of the word title, will not authorise the conclusion drawn by the court. There is no foundation for supposing that the parties to the compact meant, by rights and interests, any thing different and distinct from the titles.

A retrospect of the condition of things at the period of our separation from Virginia, will, it is believed, explain very satisfactorily, the true meaning of the words, rights and interests, as used in the 7th article of the compact.

Under the laws of Virginia, lands were appropriated by entries with the surveyor, upon warrants previously purchased from the land office. A great part of the lands located by entry, had not been carried into grant. The compact, or rather the law of Virginia containing the terms and conditions of separation, bears date on the 18th day of September, 1789. By the 9th article, the holders of treasury

warrants, were secured the right of locating them until the first day of September, 1792; and by the 18th article, the right to locate military warrants, was secured until the first day of May, in the same year. Upon the erection of Kentucky into an independent state, the sovereignty of Virginia ceased within the limits of Kentucky, and the owners of any right or interests of land, whether by warrant, entry or survey, had to look to Kentucky for a consummation of their titles; and it was certainly proper and prudent in Virginia, to require an express stipulation in their favor, and for preserving to all claimants under her, a determination according to her laws.

That the compact is susceptible of no other construction than the one given by the legislature and courts of this commonwealth, and has no reference to the rule of compensation for improvements, is very evident to your committee. Nor is it probable, that Virginia would have required a perpetual exemption of land acquired under her laws, from the operation of those rules of justice and policy, which it is incident to sovereignty to impose. Such a requisition would have been inconsistent with that magnanimous and liberal policy, which has ever distinguished her. It is equally incompatible with the principles of our federal association. To each state is guaranteed, a republican form of government, and each ought to have an equal share of sovereignty. It is proper here to mention, that Kentucky was conquered from the savages by the enterprize and valor of the early settlers. She was a part of Virginia—shared with her the toils, dangers and burdens of the revolutionary contest; and is it to be believed, that this great state would have been willing to make her a member of the Union, deprived of that portion of her sovereignty contemplated by the court? The claims of Virginia are moderate. She recognizes the power of Kentucky to coerce the improvement of her lands, and only asks her to suspend a rigid policy for six years. It is clear, that if Virginia had power to pass an occupying claimant law, Kentucky has an equal right. If the 7th article is considered a contract on the part of Kentucky for the security of claimants under Virginia, what is the effect of this contract? Is it different in its nature and character, or does it impose higher or more sacred obligations, than that which every government makes with those to whom she sells and grants land? A patent from a state or the general government, is a contract which the government can neither revoke nor impair, according to the decis-

ton of the supreme court of the United States, in the case of Peck *vs* Fletcher, involving the validity of the laws of Georgia, nullifying the Yazoo grants. A patent is a contract for title, so far as the grantor has it, and for all that use and enjoyment which is incident to the ownership of property, subject always to those burdens and that policy, which the welfare of the government which protects it, may impose. The compact with Virginia and the compact with every patentee, are in effect the same; and the opinion and reasoning of the supreme court, if confirmed and acquiesced in, would prevent any state from passing an occupying claimant law. Our laws, when applied to titles derived from Kentucky, impair the obligation of contracts, and are unconstitutional, if the opinion of the supreme court be correct. According to the principle assumed by the court, every law which in its consequences narrows the rights or diminishes the beneficial interest of the owner, is unconstitutional. If this be true, the law of Kentucky subjecting lands to the payment of debts, as to lands acquired under Virginia, the laws of the several states imposing taxes and all laws coercing the improvement of waste lands, are unconstitutional. Every law for continuing the time for surveying entries, and changing the laws for the limitation of actions, as well as the laws forfeiting the lands of those who do not list them for taxation, are unconstitutional, if no law can be passed affecting or burdening lands, but what existed in Virginia at the time of the separation. The farmer who pays a county levy, or works on a public road, may say with the same propriety, that the laws making such requisitions are void, because they diminish the income and beneficial interest of his estate, and thereby impair that contract for its enjoyment, which is implied in every grant from the government. It should be remembered, that every citizen of a social community, is identified with its general welfare, and whatever burdens that demand, may be rightfully imposed, unless interdicted by some constitutional limitation of power. The doctrine of the supreme court would favor indeed, the speculators in lands in the new states and territories; but how far it comports with the prosperity of those states, deserves consideration.

Land and the labor bestowed on it, are the chief source of the wealth and strength of an agricultural country. According to the laws of nature and nature's God, the land was intended for man's use and sustenance. The proper intent and end for which ownership is given, is, that it

may be appropriated for habitations, cultivation and useful improvements. Society is interested in agricultural industry, and it is going too far to say, that men may hold large tracts of waste and uncultivated territory and deny to the government the power by taxation or other measures, to induce them to sell or improve it. It is man's duty to cultivate, and it is the duty of government to stimulate and protect the improvement and cultivation of a country by just and salutary laws. Upon what other ground can it be contended that the wandering savages should yield their territory to the culture of civilized man?

What is called the compact with Virginia, is not properly a contract or agreement between two states, as contemplated by the second section of the 10th article of the constitution of the United States. Kentucky was a part of Virginia at the date of this compact, and had no separate political existence. The instrument called a compact, was an act passed by Virginia proposing the terms and conditions upon which Kentucky might become an independent state, and the people of Kentucky while a part of Virginia, consented to the terms. The people of Kentucky were permitted to form a constitution, and under that constitution admitted into the Union. Kentucky, in compliance with the terms of separation, made them a part of her constitution, and in no other way did Congress assent to the compact, than by accepting the constitution. Unconnected with, and independent of this constitution, no compact exists. The articles of this compact being incorporated into our constitution, are so many restrictions upon the legislative power. The court with propriety treat it as a part of our constitution, and not as a contract between two states. They do not consider our laws as violations of that part of the federal constitution which declares, that no state shall pass any law impairing the obligation of contracts: but as violations of our own constitution, the compact being part of it.

This leads to the enquiry, whether it is competent or proper, for the national tribunals to contravene the exposition of a state constitution, as given by the legislative and judicial authorities of such state. In the case of Colder and wife against Bull and wife, involving the constitutionality of a law of Connecticut, Mr. Chase, one of the judges of the supreme court of the United States, says, that he is fully satisfied, that the federal court has no jurisdiction to determine that any law of any state, contrary to the constitu-

tion of such state, is void. I should think, says he, that the courts of Connecticut are the proper tribunals to decide.—In this opinion your committee concur. They consider the exercise of such a power by the national tribunals, inconsistent with the harmony of our government, and the principles of our political association, as well as those rules of respect and courtesy observed among civilized nations.

To preserve harmony and uniformity, Congress has given to the national courts a revising power over the state judiciary, on questions of a national character; but with regard to cases arising under the constitution and laws of a state, no such power is delegated; and is there not the same necessity for harmony and uniformtty in the states, on state subjects? Suppose a case brought into one of the federal courts, depending upon the laws of a foreign country—would not the court decide according to the laws as expounded by the constituted authorities of that country? Would not such a course be demanded by justice, propriety and the courtesy due from the tribunals of one nation to those of another? Would an American court contravene the exposition of the Spanish constitution, as furnished by the Cortes and judicial tribunals of Spain? And is less respect & courtesy due to the constituted authorities of an American state? When it is considered, that the states of this Union have the same forms of government, based on the same principles of liberty and equal justice, bound together by political ties and a common feeling and interest, and when in addition to this, we attend to the true spirit and intent of the first section of the 4th article of the federal constitution, which declares, that full faith and credit shall be given in each state, to the public acts, records and judicial proceedings of every other state, it seems to your committee, that the claims of the constituted authorities of a state, to the respect and consideration of our national courts, are higher than those of a foreign country. If the federal courts can indirectly and collaterally reverse or disregard the decisions of the legislature and courts over which they have no direct reversing power, the most serious consequences are to be apprehended. There will be two rules of property and justice in every state, and the collisions and confusion which must follow, will probably ultimate in a surrender of the state governments, or a dismemberment of the American republic.

Your committee will now examine briefly the nature and character of the claim to compensation for improvements,

secured to the occupant by the laws in question, and vindicate their justice and policy. The obligation of the proprietor to pay for ameliorations of his estate, by a bona fide possessor, does not depend on the source from which his title is derived; it is surely an obligation incident to the ownership of property innocently improved by the labor of another, and has no relation to the origin of the title. It is founded on the principles of justice and policy common to the civilized world. Every class of citizens derive support and sustenance from agricultural industry, and therefore, every wise government has favored and protected the honest cultivator of the soil. That the bona fide possessor is entitled to compensation for improvements made before notice of a better title, is recognized by the English and American courts and those of Virginia, both before and since the separation of this from that state. The act of 1797, is not materially variant from the rule adopted in courts of equity. The provision allowing the occupant for improvements made after notice, equal to the rents, was intended to encourage the improvements of a new country, and must be deemed beneficial rather than injurious to the owner.—Without such a provision, the improvement of a large portion of our lands, must have been suspended during the tedious controversies in which they were involved. The act of 1812, differs from that of 1797, in only two points worthy of notice. It gives to the occupant a lien on the possession of the land until paid or secured to be paid, the value of his improvements. This cannot be complained of, considering the residence and circumstances of many of the successful claimants, whose names are often used without any beneficial interest in the suits. If the claim to compensation be well founded, the power of the legislature to give the lien cannot be questioned on constitutional ground. This act differs also from that of 1797 in this, that the occupant is freed from any charge for rents, before notice by judgment or decree, of a better title.

These laws combine the chancery rule with that policy which a new country and peculiar circumstances required. In considering the occupant a *bona fide* possessor until notified, by a court of competent jurisdiction, of a better title, the legislature have acted in the spirit of the principle of equity. Instead of leaving the settlers to the arbitrary discretion of courts, it was necessary, by legislative act, to regulate and apply the rule of compensation and rents to the peculiar state of titles in this country. Notice of a bet-

ter title, has generally been held to convert a *bona fide*, into a *mala fide* possessor; because, in general, he might, by reasonable diligence and enquiry, ascertain with tolerable certainty, the nature and validity of the adverse claim. But this reason will not hold good in Kentucky, in relation to conflicting titles derived from the land laws. It will only be necessary to look at the actual condition of things, and the manner in which lands were appropriated here, to be convinced of the propriety of the change made by the act of 1812. The land warrants sold by Virginia, were located with the surveyor, without any previous survey or reference to marked boundaries; and the validity and position of these claims depended on rules of construction to be settled by the courts, without previous landmarks to guide them, and on the proof of witnesses greatly dispersed. Owing to the uncertainties growing out of this mode of appropriation, the confliction of claims was unexampled—several patents frequently covering the same land.

Instead of forfeiting the claims of those who were unwilling to hazard their labor and money in clearing the forests under doubtful titles, Kentucky pursued the milder policy of imposing on the dormant and negligent claimants, an obligation to compensate the improver under a conflicting title. There is uncertainty in titles everywhere; none can be absolutely relied on; but the uncertainty here was peculiar. Most of the claimants who settled their lands, expected to hold them, and could only be undeceived by a legal adjudication. And in the language of Lord Kame, "sad would be the condition of landholders, were they liable, forty years back, for rents which they believed to be their own, and which, without scruple, they bestowed on procuring the necessaries and conveniences of life."

The act of 1812, relative to rents and improvements, does not introduce a new principle; but applies and adapts an old principle to a new and peculiar class of cases. Independent of the general power of government in relation to the improvement and cultivation of their lands, your committee believe the rules for settling rents and improvements between contending claimants, is a subject of domestic policy and municipal regulation; that it is the province of the Legislature to prescribe the rules of property, contracts and conduct, and that it is the duty of the courts to regard them; and that it does not belong to the judicial department, to make the rule and adjudicate upon it.

Much of the reasoning of the court is predicated upon the possible hardships and consequential inconveniences which may result from the operation of our laws; and if it be sound, there is an end to legislation. It would seem, indeed, from this opinion, that Virginia intended, by the terms and conditions of our separation, to form those landholders who could trace their titles to her laws, into a select, independent corps, free from the burdens and operations of this government.

It may be proper to notice another part of this opinion. The court say, if the legislature of Kentucky had declared that the owners of lands should not recover them, without paying a moiety or the whole of their value, or that they should sell at one half or one third of their value, such laws would be unconstitutional. In the language of a distinguished politician, these suppositions of the court, are, in the opinion of your committee, unconstitutional and void. The cases supposed, do not prove any thing on the question before the court. Would it be a fair argument in this legislature, to say, that the court have done wrong, because they might do so? Can one department act upon the supposition of an abuse of power by another? The people, in convention, to guard against the possible abuse of power, with regard to certain cardinal principles, have imposed restrictions on legislative power; but the different departments of government ought to act on the presumption that each will do its duty. The question before the court, was not, whether Kentucky might or might not abuse power, but whether she had exceeded her powers.

Upon a deliberate consideration of the whole subject, your committee are satisfied, that the opinion of the supreme court was the result of an *exparte* and mistaken view of the principles and justice of our laws, and the true intent and meaning of the compact; and the high respect your committee entertain for that enlightened and dignified tribunal, induces a strong confidence, that upon an unprejudiced review, having an eye to the real circumstances of this country which produced the laws in question, they will change that opinion. The magnitude of the question and its consequences demand, in the opinion of your committee, the interference of the general assembly; and they submit to the consideration of the house, the following resolutions:

1. *Resolved by the General Assembly of the Commonwealth of Kentucky*, That they consider the opinion of the supreme

court of the United States, delivered at their last term, in the case of John Green plaintiff against Richard Biddle defendant, incompatible with the constitutional powers of this government, and dangerous to the bests interests of the people; and therefore, do hereby, in the name of the commonwealth of Kentucky, and the good people thereof, solemnly remonstrate and protest against said opinion.

2. *Resolved*, That the governor of this commonwealth be requested to transmit copies of the foregoing report and resolution to each of our senators and representatives in congress.

3. *Resolved*, That two commissioners be appointed on the part of this commonwealth, who shall have full power and authority, if they shall deem it necessary or expedient, to repair to the city of Richmond, in Virginia, and open a communication with that government concerning the meaning and execution of the compact between this and that state; to obtain, if practicable, from Virginia, a declaration of her satisfaction with the construction and performance of said compact on the part of this commonwealth; and if such declaration cannot be obtained, to invite a discussion of her objections; and with a view to a final adjustment, to co-operate with Virginia in constituting a board of commissioners, as provided for in the 12th article of the compact.

4. *Resolved*, That the said commissioners be requested to attend the supreme court of the United States, at the next term, and resist the opinion of that court in the case of Green against Biddle, in such manner as they may deem respectful to the court, and consistent with the dignity of this state.

JOHN POPE, *Chairman.*
JAMES CLARK,
THOMAS FLETCHER,
HORATIO BRUCE,
MARTIN HARDIN,
JOHN H. TODD,
BENJAMIN DESHA,
SAMUEL BRENTS.

An amendment was offered to the said report.

*Ordered*, That the said report and amendment be laid on the table, and that the public printers forthwith print 150 copies of the said report, for the use of the members of this house.

The house took up the amendment proposed by the senate to a resolution from this house, for appointing joint com-

mittees to examine the reports from the Bank of the Commonwealth and branches.

Which being twice read was concurred in.

*Ordered*, That Mr. Wickliffe inform the senate thereof.

It was then moved and seconded, at thirty minutes after twelve o'clock, that this house do now adjourn.

And the question being taken thereon, it was decided in the negative, and so the said motion was rejected.

The yeas and nays being required thereon by messrs. Yancey and Luckett, were as follows:

Yeas—Messrs. Alexander, Allen, R. C. Anderson, Barnett, Brooking, Calhoun, Catlett, Clark, Cowan, Craig Davis, Desha, Fletcher, Garther, Griffith, Jackman, Luckett, Lynch, B. Mason, M'Clanahan, Moore, Patterson, Payne, Slack, Slaughter, Todd, Warfield and White—29.

Nays—Mr. Speaker, messrs. J. S. Anderson, Bradford, Brents, W. O. Butler, Cockerill, Cogswell, Cosby, Cravens, Dejarnett, Eaves, Gordon, Green, J. G. Hardin, M. Hardin, Inglish, King, Litton, Lecompte, Lockett, J. Mason, May, H. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Murray, Noland, Owsley, Pearcy, Pendleton, Pope, Smith, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Wickliffe, Wiley, Yancey, Yantis and Younger—44.

Mr. Davis from the select committee appointed for that purpose, reported a bill to amend the acts regulating divorces in this commonwealth.

Which was received and laid on the table.

A message from the senate by Mr. White:

*Mr. Speaker*,

The senate have passed a bill, entitled, an act to provide for the establishment of free schools—in which bill they request the concurrence of this house.

And then he withdrew.

And then the house adjourned.

## MONDAY, DECEMBER 3, 1821.

The Speaker being absent, Mr. William Logan was unanimously elected Speaker pro tem. and conducted to the chair.

Mr. Luckett presented the petition of sundry citizens of Louisville, praying that a law may pass to give to Mechanics and others employed in erecting buildings, a lien on the same, for materials furnished or labor performed on such buildings.

And Mr. Lynch presented the petition of the administrators and heirs of Edmund Martin, praying that a law may pass, authorising the sale of a part of the real estate of the said decedant, for the payment of the debts due by said estate.

Which petitions were severally received, read and referred; the first to the committee appointed to prepare and bring in a bill for the benefit of mechanics; and the second to a select committee of messrs. Lynch, Slaughter, Herald and Brooking, giving said committee leave to report thereon by bill or otherwise.

A message from the senate by Mr. Ward:

*Mr. Speaker,*

The senate have received official information, that the governor did on the 1st instant, approve and sign enrolled bills which originated in the senate, of the following titles:

An act for the relief of certain sheriffs.

An act to change the March term of the Madison circuit court.

An act to increase and regulate the judicial districts.

An act to prevent horse racing on the public highways.

An act to alter and fix the terms of the Jefferson circuit court, and for other purposes.

And they have passed bills of the following titles: An act forming the county of Lawrence out of parts of the counties of Greenup and Floyd; and an act to regulate sales of real estate by the collector of the town tax of Bardstown—in which bills they request the concurrence of this house.

And then he withdrew.

Mr. Wickliffe from the select committee to whom was referred, a bill to amend the laws allowing compensation to venire men, reported the same with amendments, which being twice read were concurred in.

*Ordered,* That the said bill as amended be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved,* That the said bill do pass and that the title thereof be amended to read "an act to amend the laws allowing compensation to venire men and witnesses."

*Ordered,* That Mr. Wickliffe carry the said bill to the senate and request their concurrence.

Mr. Howard from the select committee to whom was referred, a bill for the benefit of Henry S. Langford, infant

heir of Stephen Langford, dec. reported the same with an amendment; which being twice read was concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be amended to read, "an act for the benefit of the heirs of Stephen Langford and James White."

*Ordered*, That Mr. Smith carry the said bill to the senate and request their concurrence.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By Mr. Allen—1. A bill providing for a change of venue in the case of Elisha English.

By Mr. White—2. A bill for the benefit of Ambrose Camp.

By Mr. King—3. A bill for the benefit of the widow and heirs of John Anderson, dec.

And by Mr. Pope—4. A bill for the benefit of debtors and creditors.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the third bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. King carry the said bill to the senate and request their concurrence.

*Ordered*, That the public printers forthwith print 150 copies of the fourth bill, for the use of the members of this house.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

The senate have adopted a resolution which originated in this house, fixing on a day for the election of a President and Directors of the Bank of the Commonwealth and branches, a President and Directors of the Bank of Kentucky and other officers, with an amendment—in which amendment they request the concurrence of this house.

And then he withdrew.

*Ordered*, That the said resolution and amendment be laid on the table.

The following bills from the senate were severally read the first time and ordered to be read a second time, viz:

1. An act to explain and amend the penal laws, as respects the trial and punishment of slaves; 2. an act to amend the act vesting jurisdiction in the circuit courts to authorise the sale of the real estate of infants in certain cases; 3. an act to amend an act entitled, an act for the benefit of Daniel Trabue and others; 4. an act to authorise the county court of Montgomery to elect the trustees of the Montgomery academy; 5. an act to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and for other purposes; and 6. an act to encourage the publication of a digest of the statute law of Kentucky.

And thereupon the rule of the house, constitutional provision and second reading of the 3d, 4th, 5th and 6th bills being dispensed with, the 3d, 5th and 6th were ordered to be read a third time, and the fourth was laid on the table until the first day of March next.

And thereupon the rule of the house, constitutional provision, and third reading of the 3d, 5th and 6th bills being dispensed with,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Calhoun inform the senate thereof.

The following bills from the senate were severally read a third time, and the 4th amended by an engrossed clause by way of ryder, viz:

1. An act to regulate trials of the right of property in the country; 2. an act for the benefit of Polly Parker and her children; 3. an act to amend an act entitled, an act to amend an act directing certain surveyors to transcribe certain entry books; 4. an act to amend an act establishing a seminary in Rockcastle county.

The first was committed to a select committee of messrs. Brents, Yantis, A. Butler, Calhoun, Clark and Miller; and the second to a select committee of messrs. Howard, Smith, Bruce, Catlett and Warfield.

*Resolved*, That the third and fourth bills do pass, the fourth as amended.

*Ordered*. That Mr. Smith inform the senate thereof and request their concurrence in the amendments proposed to the fourth bill.

Mr. Alexander read and laid on the table the following resolution:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That nominations for the President and Directors of the Bank of Kentucky, and the Bank of the Commonwealth of Kentucky, shall be made at least three days previous to the election for persons to fill said offices.

A message from the senate by Mr. Lackey:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to authorise the sale of a part of the real estate of Alexander Dunbar, deceased—in which bill they request the concurrence of this house.

And then he withdrew.

A bill from the senate entitled, an act to revive the law providing for the appointment of commonwealth's attornies, was read a third time as amended.

It was then moved and seconded to commit the said bill to a select committee, for amendment.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Bruce and Cockerill were as follows, viz:

Yeas—Mr. Speaker, messrs. Allen, J. S. Anderson, Brooking, Bruce, Catlett, Clark, Cockerill, Craig, Davis, Desha, Duncan, Fletcher, Green, Griffith, Jackman, Litton, Lecompte, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, M'Cracken, Miller, Munford, Payne, Pearcy, Pendleton, Sandford, Selby, Slack, Wiley and Younger—34.

Nays—messrs. Barnett, Bradford, Brents, Buford, W. O. Butler, Cogswell, Cosby, Cowan, Cravens, Dejarnett, Eaves, Gaither, Gordon, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, King, Lockett, Love, Luckett, B. Mason, M'Connell, S. M'Elroy, M'Millan, Moore, Murray, Noland, Owsley, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Warfield, White, Witherspoon, Yancey and Yantis—44.

*Resolved*, That the said bill as amended do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Wickliffe inform the senate thereof and request their concurrence in said amendment.

A message from the senate by Mr. Davidson:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to add a fourth Judge to the Court of Appeals, and for other purpo-

ses—in which bill they request the concurrence of this house.

And then he withdrew.

*Ordered*, That a bill from the senate entitled, an act to amend an act entitled, an act to appoint trustees to the town of Franklin, be laid on the table.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house to a bill from the senate entitled, an act to amend the militia law, with amendments—in which they request the concurrence of this house.

And then he withdrew.

A bill to establish a State Lunatic Hospital, was read a second time as follows, viz:

Whereas large sums of money have heretofore been expended by this commonwealth, in the care and safe keeping of lunatics and persons of unsound mind, which sums are found from experience to be improperly and injudiciously laid out, consistent neither with economy nor a reasonable prospect of recovering the unfortunate sufferers: And whereas it is considered most advisable, to provide for the care and safe keeping of insane persons in a general State Hospital, where mild restraint can be imposed and skillful medical assistance had; and it being represented to the present General Assembly, that the building erected by the Fayette Hospital company and the land thereto attached, can be purchased on reasonable terms, and that when the said building is completed, it will be well calculated to answer the purposes of a State Lunatic Hospital; and moreover, that the professional aid of the instructers of the Medical College and other medical gentlemen at Lexington, will be rendered gratuitously: Therefore,

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Mathews Flournoy, Elisha Warfield, Thomas Wallace, Matthew Kennedy and Charles Humphreys be, and they are hereby, appointed commissioners on the part of this commonwealth, to contract with such member or members of the Fayette Hospital company, as shall have power to make such contract, for the sale and purchase of the said Hospital, with its lands and appurtenances; and the said commissioners are hereby vested with full power and authority to make such purchase, and to require and receive on behalf and for the commonwealth, a

deed of conveyance for the said property, whereby a title in fee may be vested in this commonwealth.

§ 2. *And be it further enacted*, That the said commissioners are hereby authorised to employ undertakers to finish the said building, dividing and laying off into such rooms and apartments as will be most convenient for the objects intended to be answered, on the best terms practicable; and as the respective portions of work are completed, the commissioners may apply to the Auditor of public accounts, who shall issue a warrant on the Treasury for such sums, not exceeding altogether the amount of $ which shall be paid out of any moneys in the Treasury not otherwise appropriated.

§ 3. *And be it further enacted*, That in contracting for and making said purchase, the commissioners shall be governed by the following rules: 1st. The title shall be full, complete and unincumbered in the commonwealth—2d. The sum to be paid as purchase money shall not exceed $ 3d. Full and complete possession in the commonwealth, by her commissioners, is to follow immediately after contract and payment made.

§ 4. *And be it further enacted*, That when the said contract is so made and a deed of conveyance tendered, the commissioners are hereby empowered, to call upon the Auditor for a warrant, who shall grant the same for a sum not exceeding $ and the Treasurer, for the time being, is hereby directed to pay the same out of any moneys in the treasury not otherwise appropriated.

§ 5. *And be it further enacted*, That three or more of said commissioners, may do and transact any business by this law required of them to be done, and a majority may fill any vacancies that may happen; and before they shall draw any money from the treasury, they shall enter into bond in the office of the court, in the penalty of $ with two or more securities, to be approved of by said court, payable to the commonwealth of Kentucky, conditioned for the true and faithful application of all moneys placed in their hands for the purposes aforesaid; upon which bond, suit may be brought in said court for any breach of the condition aforesaid; and it shall be the duty of the Attorney General, for the time being, for and in behalf of the commonwealth, to prosecute any suit for a breach of the said condition, under the same rules and regulations that other public defaulters are prosecuted to judgment and execution.

§ 6. *And be it further enacted*, That the said commissioners shall be removeable at the will and pleasure of the legislature, whenever they consider it expedient to appoint others, and they are hereby required to lay before the legislature a statement in writing, of all their actings and doings, supported by affidavit. And the said commissioners shall open the said hospital for the reception of lunatics, so soon as a number of rooms are completed equal to the care of ten persons, and thereupon employ some fit and competent person to take care of and superintend the same, who shall be paid from the treasury of the state, a reasonable compensation therefor quarter annually; and shall continue to provide rooms and give notice for the reception of lunatics, until the whole of the lunatics chargeable to the state, be delivered to the care of the superintendant of the said hospital.

§ 7. *And be it further enacted*, That so soon as the commissioners under this act, shall notify the different circuit courts in this state, that they are prepared for the reception of lunatics, that such courts shall make such order as may be necessary, for the lunatics of the county and of all such as may be hereafter found to be of unsound mind, to the superintendant of the said hospital; and no moneys shall be drawn from the treasury by the committees appointed for the safe keeping of lunatics after such notice is given, and the order made as aforesaid: *Provided*, That the circuit court shall make such allowance for the delivery of lunatics to the superintendant of the hospital, as may be reasonable, to be paid out of the treasury of this commonwealth.

§ 8. *Be it further enacted by the authority aforesaid*, That the following persons, viz: Henry Clay, James Morrison, Charles Wilkins, William T. Barry, Matthews Flournoy, John W. Hunt, Charles Humphreys, Elisha Warfield, John R. Witherspoon, Alexander Parker, Thomas Bodley and James Trotter, be, and they are hereby appointed a board of Trustees or Managers of the said institution; who shall make such by-laws, rules and regulations for the well governing, ordering and regulating the hospital, as may to them or a majority of them, appear to be good, useful and necessary to manage, direct and control all the business and concerns of the said hospital; to see that the lunatics be properly attended to and taken care of, and that the whole aim and end of this institution, be carried into complete operation: *Provided*, That the said by-laws, rules, &c. be not repugnant to the laws of this state, nor of the United States.

§ 9. *Be it further enacted*, That the said trustees, or a majority of them, shall have power to fill all vacancies which may from time to time happen in their board, until the legislature may otherwise provide, and to continue in office until such provision be made: and moreover, that they or a majority of them, shall have power to call on the Auditor of public accounts, from time to time, for such sums of money as the legislature may see fit to appropriate for the use and maintenance of the said lunatics and the superintendant of the said hospital, and for such other expenses as the legislature may, from time to time, provide.

§ 10. *Be it further enacted*, That it shall and may be lawful for the said trustees, or a majority of them or their successors in office, by the name and stile of the "Trustees of the State Lunatic Hospital at Lexington," for the use and benefit of said hospital, to receive and take any lands, tenements and hereditaments, goods or chattels whatsoever, by gift, grant, alienation, bequest, or devise, and to make sale and conveyance of any such lands, tenements or hereditaments, so given, granted, alienated, bequeathed, or devised; and the said trustees shall have and maintain, all the rights and privileges which belong to the contributors of the Fayette Hospital.

It was then moved and seconded to postpone the further consideration of said bill until the first day of June next.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Noland and Cockerill, were as follows, viz:

Yeas—Messrs. Allen, J. S. Anderson, Barnett, Bruce, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, King, Litton, Lecompte, Lynch, B. Mason, May, M'Clanahan, H. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Rudd, Sandford, Selby, Smith, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Yancey and Younger—47.

Nays—Mr. Speaker, messrs. Alexander, Bradford, Brents, Brooking, Buford, W. O. Butler, Calhoun, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Howard, Jackman, Johnson, Lockett, Love, Luckett, J. Mason, M'Connell, S. M'Elroy, Moore, Murray, O'Bannon, Pope, Slack, Slaughter, Speed, Stone of Mad-

ison, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon and Yantis—42.

And then the house adjourned.

## TUESDAY, DECEMBER 4, 1821.

Mr. Desha presented the petition of sundry citizens of Maysville, in Mason county, praying that a law may pass to authorise the appointment of an additional justice of the peace to reside in said town.

Mr. B. Taylor presented the petitions of sundry citizens of Franklin county, residing on the south side of the Kentucky river, praying that a law may pass to authorise and direct the county court of said county, to levy a tax on said county, for the purpose of enabling the citizens on the south side of Kentucky river, to attend their seat of justice free from *bridge or turnpike toll*, when attending courts and other public duties.

And Mr. Slack presented the petition of sundry citizens of Mason and Bracken counties, praying that a law may pass to remove the Branch Bank of the Commonwealth from Flemingsburg to Maysville; or that a Branch of said bank may be located at that place.

Which petitions were severally received, read and referred; the first to a select committee of messrs. Desha, Slack and Worthington, giving said committee leave to report thereon by bill or otherwise; and the second and third to the committee of propositions and grievances.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of sundry citizens of Fleming county, praying that a part of said county be added to the county of Nicholas, *is reasonable*.

*Resolved*, That the petition of sundry citizens of the counties of Adair, Wayne and Cumberland, praying for the formation of a new county out of a part of each of said counties, *be rejected*.

*Resolved*, That the petition of sundry citizens of the county of Gallatin, praying the place for holding elections in the Eagle precinct in said county may be changed, *is reasonable*.

*Resolved*, That the petition of sundry citizens of Trigg county, praying that a vote be taken for the removal of the seat of justice in said county, *is reasonable*.

*Resolved*, That the petition of William Hunter and others, praying that the money paid by them for rebuilding the state house may be refunded to them, *be rejected*.

Which being twice read (and the first resolution amended by striking out the words, *is reasonable*, and inserting in lieu thereof the words, *be rejected*) the 1st, 2d, 3d and 4th resolutions were concurred in, and the 5th was recommitted to the committee of propositions and grievances.

*Ordered*, That the said committee prepare and bring in bills pursuant to the 3d and 4th resolutions.

Mr. Yantis moved the following resolution, viz:

*Resolved*, That the committee of propositions and grievances to whom was referred, the petition of William Hunter and others, be instructed to inquire into the expediency of removing the seat of government from the town of Frankfort, and refunding the money to the different subscribers to the public buildings in said town.

Which being twice read was adopted.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*.

The senate have passed a bill entitled, an act for the benefit of Peter Watts and John Curd's heirs—in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, and had found the same truly enrolled, viz: An act to amend an act entitled, an act to amend an act directing certain surveyors to transcribe certain entry books; an act to revive the law providing for the appointment of commonwealth's attornies; an act to amend an act entitled, an act for the benefit of Daniel Trabue and others; an act concerning the qualification of the president and directors of the bank of Kentucky, on the part of the state; an act for the benefit of Polly Power; an act for the benefit of Samuel Simpson and others; an act to regulate appeals from justices of the peace to the county courts; an act to add a part of Logan county to the county of Todd; an act for the benefit of Jesse Walker and others; and resolutions appointing joint committees on the reports from the Bank of the commonwealth and branches.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

A message from the senate by Mr. Lee, their secretary:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house to a bill from the senate entitled, an act to revive the law providing for the appointment of commonwealth's attornies: They concur in the amendments proposed by this house upon concurring in those proposed by the senate to a bill from this house entitled, an act for the benefit of the clerk of the circuit and county court of Cumberland. They have passed bills which originated in this house of the following titles: An act for the benefit of the heirs of Stephen Rossell, deceased; an act authorising the county court of Henderson to sell one acre of the public square in the town of Henderson. And they have passed bills of the following titles: An act to amend the act regulating divorces; and an act declaring the punishment of free white male persons, found guilty of petit larceny—in which bills they request the concurrence of this house.

And then he withdrew.

Mr. Speed from the select committee to whom was referred a bill to amend and repeal in part an act entitled, an act for establishing and laying off a town at the iron banks, approved Dec. 27, 1820, reported the same with an amendment, which being twice read was disagreed to, and the said bill being amended at the clerk's table, was, with the amendments, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. Wickliffe carry the said bill to the senate and request their concurrence.

The following bills were reported from the several committees appointed to prepare and bring in the same:

By Mr. Noland—1. A bill for the benefit of Joseph Crawford.

By Mr. M. Hardin—2. A bill for the benefit of Joel Morrison.

By Mr. Cosby—3. A bill for the benefit of the widow and heirs of John Willett, dec.

By Mr. Lynch—4. A bill for the benefit of Polly Martin.

5. A bill altering the mode of laying the county levy.

By Mr. Bruce—6. A bill for the benefit of Richard Clark and Samuel Curswell.

And By Mr. Slack—7. A bill further to regulate circuit courts in this commonwealth.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the second, third, fourth and sixth bills being dispensed with, and the same being engrossed,

*Resolved*. That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*. That Mr. Cosby carry the said bills to the senate and request their concurrence.

On the motion of Mr. Pope,

*Ordered*. That leave be given to bring in a bill for the benefit of Joseph Ray; and that messrs. Pope, Cosby, Kincheloe and S. M'Elroy, be appointed a committee to prepare and bring in the same.

Mr. Catlett from the majority on the vote by which a bill from the senate entitled, an act to authorise the county court of Montgomery to elect the trustees of the Montgomery academy, was laid on the table until the first day of March next, moved for a reconsideration of said vote.

And the question being taken on reconsidering said vote, it was decided in the negative, and so the said motion was rejected.

And then the house adjourned.

## WEDNESDAY, DECEMBER 5, 1821.

The Speaker having returned, resumed the chair.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to abolish imprisonment for debt, and subject equitable interests to execution—in which bill they request the concurrence of this house.

And then he withdrew.

Mr. Alexander presented the petition of Francis Maramen, Mortimer D. Robards and Joseph Huston, praying compensation for guarding Asa Smith and Henry Younger, charged with perjury, from Bullitt to Gallatin county.

Mr. Howard presented the petition of Green Clay, praying that a bill for the benefit of the heirs of Stephen Lany-

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ford and James White, so far as the same relates to the heirs of James White, may not be permitted to pass and become a law; and that an act of the general assembly, passed January 16th, 1818, entitled, an act for the benefit of the widow and heirs of John Hendley, deceased, and for other purposes, may be repealed.

Mr. W. O. Butler presented the petition of Thomas L. Butler, administrator of the estate of Henry Clifton, dec. of Gallatin county, praying that a law may pass authorising him to sell a part of the real estate of said decedant, for the purpose of discharging the debts due by said estate.

Mr. Sandford presented the petition of Mary Prewitt, praying that a law may pass to relieve and discharge her from the further administration of the estate of her deceased husband, Anderson L. Prewitt.

Mr. H. M'Elroy presented the petition of Cecilia Pool, praying a divorce from her husband, John Pool.

Also, the petition of Charlotte Williams, praying a divorce from her husband, Joseph Williams.

And Mr. Bruce presented the petition of sundry citizens of Mason and Lewis, praying that a law may pass to declare a part of Cabin Creek navigable, and to prevent any obstructions from being thrown into said stream to obstruct the navigation thereof, or the mooring of boats therein.

Which petitions were severally received, read and referred; the first to a select committee of messrs. Alexander, R. C. Anderson, W. O. Butler, White and Yancey; the second to a select committee of messrs. Howard, Dejarnett, Stone of Madison, Yantis, Noland and Logan; the third to the committee for courts of justice; the fourth to a select committee of messrs. Sandford, Johnson, Yantis, Wickliffe and Alexander; the fifth and sixth to the committee of religion; and the seventh to a select committee of messrs. Bruce, Desha, Slack, Rudd, Speed and Bradford, giving said committees leave to report thereon by bills or otherwise.

On the motion of Mr. Howard,

*Ordered*, That a message be sent to the senate, requesting permission to withdraw a bill which passed this house, and was reported to the senate, entitled, an act for the benefit of the heirs of Stephen Langford and James White; and that Mr. Howard carry the said message.

A message from the senate by Mr. Jones:

*Mr. Speaker*,

Agreeably to the request of this house, I am directed to return a bill entitled, an act for the benefit of the heirs of Stephen Langford and James White.

And then he withdrew.

Mr. M'Millan from the committee of propositions and grievances, made the following report, which was twice read viz:

The committee of propositions and grievances have, according to order, had again under consideration the petition of William Hunter and others, praying that money paid by them for rebuilding the state house be refunded to them, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the said petition, *is reasonable.*

*Resolved*, That it is expedient to refund to each person the amount of money or property subscribed and paid by them, for the building of the capitol in the town of Frankfort.

*Resolved*, That it is expedient to remove the seat of government from the town of Frankfort, to some more central and eligible place.

The first and second resolutions having been disagreed to, the question was then put on concurring in the third resolution, which was decided in the negative, and so the said resolution was disagreed to.

The yeas and nays being required thereon by messrs. Younger and Cockerill were as follows, viz:

Yeas—Mr. Speaker, messrs. Allen, J. S. Anderson, Catlett, Cockerill, Cosby, Cowan, Craig, Cravens, Gaither, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Inglish, Kincheloe, King, Lynch, H. M'Elroy, S. M'Elroy, Miller, Moore, Mullens, Munford, Owsley, O'Bannon, Pendleton, Pope, Rudd, Selby, Slaughter, Stone of Wayne, J. Taylor and Yantis—35.

Nays—messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, Buford, W. O. Butler, Calhoun, Clark, Cogswell, Crawford, Davis, Dejarnett, Desha, Duncan, Eaves, Griffith, Howard, Jackman, Johnson, Litton, Lecompte, Lockett, Love, Luckett, B. Mason, J. Mason, May, M'Clanahan, M'Connell, M'Millan, M'Cracken, Murray, Noland, Patterson, Payne, Pearcy, Slack, Smith, Speed, Stone of Madison, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Yancey and Younger—54.

Mr. Howard from the select committee to whom was referred, a bill from the senate entitled, an act for the benefit

of Polly Parker and children, reported the same with amendments, which being twice read were concurred in.

*Ordered*, That the said bill be again read a third time as amended.

And thereupon the rule of the house, constitutional provision and third reading of the said bill being dispensed with,

*Resolved*, That the said bill as amended do pass and that the title thereof be amended by adding thereto the words "and for other purposes."

*Ordered*, That Mr. Howard inform the senate thereof and request their concurrence in the said amendments.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*,

The senate have passed a bill, entitled, an act forming the counties of Hickman, Graves, Calloway and M'Cracken, on the south west of the Tennessee river—in which bill they request the concurrence of this house.

And then he withdrew.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By Mr. Brents—1. A bill to regulate the times of holding circuit courts in this commonwealth.

By Mr. Desha—2. A bill to appoint an additional justice of the peace in the county of Mason.

By Mr. M'Millan from the committee of propositions and grievances—3. A bill to change the place of holding elections in the Eagle precinct in Gallatin county.

By Mr. Logan—4. A bill for the relief of Culvin Sanders.

And 5. A bill for the benefit of the sheriff of Shelby county.

And by Mr. Cosby—6. A bill to reduce the number of officers in the state bank and its branches.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the 1st, 2d, 3d, 4th and 5th bills being dispensed with, the first was laid on the table, and the 2d, 3d, 4th and 5th, (the 2d, 3d and 4th being amended at the clerk's table) were ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision, and third reading of the 2d, 3d, 4th and 5th bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass—that the title of the second be amended to read, "an act to appoint additional justices of the peace in the counties of Mason and Rockcastle;" that of the third be amended to read "an act to change the place of holding elections in the Eagle precinct in Gallatin county, and the Walnut Grove precinct in Mercer county;" that of the fourth be amended to read, "an act for the relief of Culvin Sanders and Elizabeth Davenport; and that that of the fifth be as aforesaid.

*Ordered*, That Mr. Moore carry the said bills to the senate and request their concurrence.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

I am directed by the senate to request permission to withdraw form this house a bill reported as having passed the senate, entitled, an act forming the counties of Hickman, Graves, Calloway and M'Cracken, on the south west of the Tennessee river.

And then he withdrew.

*Ordered*, That permission be given to withdraw said bill; and that Mr. Warfield inform the senate thereof.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

The senate have passed a bill entitled, an act for the benefit of Guillianne Maria Paul Villeminot—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Crutcher:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to amend an act regulating jailors' fees, approved January 31, 1818—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate have passed a bill entitled, an act forming the counties of Hickman, Graves, Calloway and M'Cracken, south west of the Tennessee river—in which bill they request the concurrence of this house.

And then he withdrew.

The house took up the report of the committee to whom was referred, so much of the Governor's message as relates to the occupying claimant laws of this state, and the resolutions recommended by said committee.

Which being twice read and amended, were adopted.

*Ordered*, That mr. Pope carry the said report and resolutions to the senate and request their concurrence.

And then the house adjourned.

## THURSDAY, DECEMBER 6, 1821.

On the motion of mr. Howard,

*Ordered*, That the vote by which an engrossed bill entitled, an act for the benefit of the heirs of Stephen Langford and James White, passed this house, be reconsidered, and that the same be recommitted to a select committee of messrs. Howard, Smith and Dejarnett.

Mr. Warfield moved the following resolution, viz :

*Resolved by the house of representatives of the commonwealth of Kentucky*, That leave be given to Jesse Bledsoe, Esq. to use the hall of the house of representatives, for the purpose of delivering a public introductory law lecture, on Friday evening the 7th of this instant, at three o'clock.

Which being twice read was adopted.

mr. May presented the petition of sundry citizens of Floyd county, praying for the formation of a new county out of a part thereof.

Mr. Allen presented the petition of Elizabeth Johnson, praying a divorce from her husband, James Johnson.

mr. R. C. Anderson presented the petition of the officers of the first regiment of Kentucky militia, praying that a law may pass to authorise a majority of the officers of said regiment, to appoint a collector to collect the fines due to the same.

Also, the petition of sundry citizens of Jeffersontown in Jefferson, praying that a change may be made in the present mode of making sales of the real estate in said town for the taxes due thereon, and that a time may be given for redeeming property sold for taxes.

Which petitions were severally received, read and referred ; the first to a select committee of messrs. May, Payne, Moore, Brents and Cockerill ; the second to the committee of religion ; the third to a select committee of messrs. Anderson, Yantis, Cogswell, Clark and M'Connell ; and the fourth to a select committee of messrs. R. C. Anderson, Luckett, White and Logan, giving said committees leave to report thereon by bills or otherwise.

Mr. Howard from the select committee to whom was referred, an engrossed bill entitled, an act for the benefit of

the heirs of Stephen Langford and James White, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended be re-engrossed and again read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being re-engrossed,

*Resolved*, That the said bill do pass and that the title thereof be amended to read "an act for the benefit of Henry S. Langford, infant heir of Stephen Langford, dec.

*Ordered*, That MR. Smith carry the said bill to the senate and request their concurrence.

Mr. Brents from the select committee to whom was referred, a bill from the senate entitled, an act to regulate trials of the right of property in the country, reported the same with an amendment.

*Ordered*, That the said bill and amendment be recommitted to a select committee of messrs. Fletcher, Brents, Cravens, Worthington and Miller.

The following bills were reported from the several committees appointed to prepare and bring in the same:

By MR. May—1. A bill for the improvement of the navigation of Big Sandy river.

And by MR. H. M'Elroy—2. A bill authorising the trustees of the Union academy, to sell certain lands.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the latter bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. H. M'Elroy carry the said bill to the senate and request their concurrence.

Mr. Crawford from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act for the benefit of the heirs of Stephen Rossell, dec.; an act to authorise the county court of Henderson to sell one acre of the public square in the town of Henderson; an act for the benefit of the clerks of the circuit and county courts of Cumberland and Estill, and the surveyor of Casey county; an act to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and

for other purposes; an act to amend an act establishing a seminary in Rockcastle county and for other purposes; an act to encourage the publication of a digest of the statute laws of Kentucky; and an act for the benefit of Polly Parker and children, and for other purposes.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Crawford inform the senate thereof.

After a short time mr. Crawford reported, that the committee had laid said bills before the governor for his approbation and signature.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker*,

I am directed by the governor to inform this house, that he did on the 5th instant, approve and sign enrolled bills and resolutions which originated in this house, of the following titles:

An act to regulate appeals from justices of the peace to the county courts.

An act for the benefit of Jesse Walker and others.

An act to add part of Logan county to the county of Todd.

An act for the benefit of Samuel Simpson and others.

And resolutions appointing joint committees on the reports from the Bank of the Commonwealth and branches.

And then he withdrew.

*Ordered*, That Mr. Crawford inform the senate thereof.

Bills of the following titles, viz: 1. A bill for the divorce of sundry persons; 2. a bill for the benefit of the heirs of William Shannon, dec.; 3. a bill to incorporate the Lexington medical society; 4. a bill to regulate by law the mode of compensating attornies for the commonwealth in the county courts; 5. a bill for the benefit of the heirs of William Allen, dec.; 6. a bill regulating the turnpike and wilderness state road; 7. a bill to amend the charter of the Bank of the Commonwealth of Kentucky; 8. a bill to alter the mode of summoning petit jurors; 9. a bill to amend the several acts regulating sheriffs' and constables' fees in this commonwealth; 10. a bill for the benefit of the seminary in Harlan county; 11. a bill to improve the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling fork, to the summit of Muldrough's hill; 12. a bill to amend an act entitled, an act to authorise the establishment of private passways; and 13. a bill to reduce magistrates' fees in cases of five pounds and under,

Were severally read a second time.

The first, third, fifth, tenth, eleventh and twelfth, were severally ordered to be engrossed and read a third time; the second was committed to a select committee of messrs. Younger, Logan, Pearcy, B. Taylor and Yantis; the sixth to a select committee of messrs Love, Craig, Litton, M'Millan, Howard, Stone of Madison and Dejarnett; the seventh to a select committee of messrs King, Catlett, Luckett, Brents, Cowan, Brooking, Logan and Fletcher; the eighth to a select committee of messrs. Wickliffe, R. C. Anderson, Cogswell, M. Hardin, Cosby, Talbot, M'Millan and Cravens; the ninth to a select committee of messrs. Allen, Clark, Warfield, Jackman, Cosby and W. O. Butler.

And the question being taken on engrossing the fourth and thirteenth bills and reading them a third time, it was decided in the negative; and so the said bills were rejected.

The yeas and nays being required on engrossing the 13th bill and reading it a third time by messrs. Clarke and Catlett, were as follows, viz:

Yeas—messrs. Allen, Brooking, Bruce, Buford, Calhoun, Catlett, Clark, Cockerill, Cravens, Crawford, Dejarnett, Desha, Duncan, Green, Griffith, J. G. Hardin, Inglish, Jackman, Johnson, Lecompte, Lockett, Lynch, J. Mason, May, H. M'Elroy, M'Millan, Moore, Murray, Noland, O'Bannon, Payne, Rudd, Slack, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Wiley, Worthington, Yantis and Younger—41.

Nays—Mr. Speaker, messrs. Alexander, J. S. Anderson, R. C. Anderson, Brents, W. O. Butler, Cogswell, Cosby, Davis, Eaves, Fletcher, Gaither, Gordon, M. Hardin, Herald, Kincheloe, King, Litton, Logan, Love, Luckett, B. Mason, M'Connell, M'Cracken, Miller, Munford, Owsley, Patterson, Pearcy, Pendleton, Pope, Selby, Shannon, Slaughter, Speed, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon and Yancey—43.

And thereupon the rule of the house, constitutional provision, and third reading of the 1st, 5th and 10th bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That Mr Wickliffe carry the said bills to the senate and request their concurrence.

The yeas and nays being required on the passage of the first bill by messrs. S. M'Elroy and Inglish, were as follows, viz:

Yeas—messrs. Alexander, Allen, Bradford, Brents, Brooking, Bruce, Buford, Calhoun, Clark, Cogswell, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Fletcher, Griffith, J. G. Hardin, Herald, Howard, Inglish, Jackman, Johnson, Kincheloe, King, Lecompte, Lockett, Love, Luckett, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, M'Cracken, Noland, O'Bannon, Patterson, Sandford, Slack, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, C. H. Taylor, Thompson, White, Wickliffe and Yancey—54.

Nays—mr. Speaker, messrs. J. S. Anderson, W. O. Butler, Catlett, Cockerill, Crosby, Craig, Eaves, Gaither, Gordon, Green, M. Hardin, Litton, Logan, Lynch, S. M'Elroy, M'Millan, Miller, Moore, Munford, Murray, Owsley, Payne, Pearcy, Pendleton, Pope, Rudd, Selby, Shannon, J. Taylor, Todd, Warfield, Wiley, Witherspoon, Yantis and Younger—36.

The following bills from the senate were severally read the first time, viz: 1. An act to abolish imprisonment for debt and subjecting equitable interests to execution; 2. an act for the benefit of the widow and heirs of John R. Chitwood; 3. an act for the benefit of Luke Munsell; 4. an act declaring the power of county courts relative to opening roads.

The 1st, 2d and 3d bills were ordered to be read a second time, and the 4th was postponed *indefinitely*.

*Ordered*, That the public printers forthwith print 150 copies of the first bill, for the use of the members of this house.

And thereupon the rule of the house, constitutional provision and second and third readings of the 2d bill being dispensed with,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Catlett inform the senate thereof.

mr. Catlett moved the following resolution, viz:

*Resolved*, That this house shall in future have a recess from 2 o'clock until 3 o'clock, at which time the members shall resume their seats at the ringing of the bell.

Which being twice read was disagreed to.

The yeas and nays being required thereon by messrs. Catlett and M. Hardin, were as follows:

Yeas—messrs. J. S. Anderson, Catlett, Cockerill, Dejarnett, Eaves, J. G. Hardin, M. Hardin Howard, Inglish, Litton, H. M'Elroy, S. M'Elroy, Miller, Munford, Owsley,

ley, Patterson, Payne, Pendleton, Pope, Rudd, Slack, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, C. H. Taylor, Wickliffe, Wiley, Witherspoon, Worthington, Yancey and Younger—32.

Nays—mr. Speaker, messrs. Alexander, Allen, Bradford, Brents, Brooking, Bruce, Buford, W. O. Butler, Calhoun, Clark, Cosby, Cravens, Crawford, Davis, Desha, Duncan, Fletcher, Gaither, Gordon, Green, Griffith, Herald, Jackman, Johnson, Kincheloe, King, Lecompte, Lockett, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, M'Millan, M'Cracken, Moore, Mullens, Murray, Noland, O'Bannon, Pearcy, Sandford, Selby, Shannon, Smith, Speed, B. Taylor, Todd, Warfield, White and Yantis—57.

Engrossed bills of the following titles: 1. An act giving further time to the settlers on the lands acquired by the treaty of Tellico, to return plats and certificates of survey; and 2. an act to authorise the establishment of a Branch of the Bank of the Commonwealth in the thirteenth judicial district,

Were severally read a third time, and the blanks in the second filled.

*Resolved*, That the said bills do pass and that the title of the first be amended to read, "an act giving further time to return plats and certificates of survey;" and that of the second to read, "an act to authorise the establishment of a Branch of the Bank of the Commonwealth in Bardstown.

*Ordered*, That mr. Wickliffe carry the said bills to the senate and request their concurrence.

The yeas and nays being required on the passage of the latter bill by messrs. J. Mason and Dejarnett, were as follows, viz:

Yeas—messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Brents, Buford, W. O. Butler, Calhoun, Catlett, Clark, Cosby, Cravens, Davis, Duncan, Fletcher, Gordon, Griffith, M. Hardin, Herald, Jackman, Kincheloe, Litton, Lecompte, Luckett, Lynch, B. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, Miller, Moore, Munford, O'Bannon, Patterson, Pope, Shannon, Slack, Smith, Speed, Stone of Wayne, Todd, Warfield, White, Wickliffe, Witherspoon, Yantis and Younger—48.

Nays—mr. Speaker, messrs. Brooking, Bruce, Cockerill, Cogswell, Cowan, Crawford, Dejarnett, Desha, Eaves, Gaither, Green, J. G. Hardin, Inglish, Johnson, Lockett, Logan, Love, J. Mason, M'Millan, M'Cracken, Mullens,

Murray, Noland, Owsley, Pearcy, Pendleton, Rudd, Sandford, Selby, Stone of Madison, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Wiley and Yancey—37.

And then the house adjourned.

## FRIDAY, DECEMBER 7, 1821.

Mr. Smith presented the petition of sundry citizens of Madison county, praying that a part of said county may be added to the county of Rockcastle.

And mr. M'Clanahan presented the petition of the administrators and heirs of Archibald Marshall, dec. praying that a law may pass to authorise a sale of part of the real estate of said decedant, for the purpose of discharging the debts due by said estate.

Which petitions were severally received, read and referred; the first to the committee of propositions and grievances; and the second to a select committee of messrs. M'Clanahan, Crawford, R. C. Anderson and Wiley, giving said committee leave to report thereon by bill or otherwise.

Leave was given to bring in the following bills:

On the motion of mr. Wiley—1. A bill for the relief of the clerk of the Nicholas circuit court.

And 2. A bill for the benefit of William Hall.

Messrs. Wiley, M'Clanahan and Fletcher, were appointed a committee to prepare and bring in the first; and messrs. Wiley, M'Millan, Mullens and Fletcher, the second.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By mr. R. C. Anderson—1. A bill concerning the town of Jefferson in Jefferson county.

By mr. White—2. A bill for the benefit of the first regiment of Kentucky militia.

By mr. Alexander—3. A bill for the benefit of Francis Maramon, Mortimer D. Robards and Joseph Huston.

And by mr. Howard—4. A bill for the benefit of Sevier Lewis and Benjamin Bridges.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the first and second bills being dispensed with, the former was ordered to be engrossed and read a third time, and the second was committed to a select committee of messrs. Yantis, White, M'Connell and R. C. Anderson.

And thereupon the rule of the house, constitutional provision and third reading of the former bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. Crawford carry the said bill to the senate and request their concurrence.

A message from the senate by Mr. Lee, their secretary: *Mr. Speaker*,

The senate have received official information, that the governor did on the 5th instant, approve and sign enrolled bills which originated in the senate, of the following titles:

An act for the benefit of Polly Power.

An act to amend an act entitled, an act to amend an act directing certain surveyors to transcribe certain entry books.

An act to revive the law providing for the appointment of commonwealth's attornies.

An act concerning the qualifications of the president and directors of the Bank of Kentucky, on the part of the state.

An act to amend an act entitled, an act for the benefit of Daniel Trabue and others.

They have passed a bill which originated in this house entitled, an act making compensation for the surveyor and others employed on the part of this state, for running and marking the boundary line between the states of Kentucky and Tennessee: And they have adopted resolutions which originated in this house, in relation to a portion of the public lands of the United States, as a means of creating a fund for promoting education, and to the right of the several states of the Union, to a part of the same for that purpose; and resolutions concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky, with amendments to the latter resolutions—in which they request the concurrence of this house.

And then he withdrew.

Mr. Yantis from the select committee to whom was referred, a bill for the benefit of the first regiment of Kentucky militia, reported the same with an amendment; which being twice read, was concurred in.

*Ordered*, That the said bill as amended, be engrossed and read a third time.

A bill from the senate entitled, an act to abolish imprisonment for debt and subjecting equitable interests to execution, was read a second time and referred to the committee

who were appointed to prepare and bring in a bill on that subject; and messrs. Cosby and Warfield were added to said committee.

A bill from the senate entitled, an act to authorise the sale of part of the real estate of Alexander Dunbar, deceased, was read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bills being dispensed with, (the same being amended at the second reading,)

*Resolved*, That the said bill as amended do pass.

*Ordered*, That mr. May inform the senate thereof and request their concurrence in the said amendments.

Mr. Allen from the select committee to whom was referred, a bill to amend the several acts regulating sheriffs' and constables' fees in this commonwealth, reported the same with an amendment; which said bill and amendment, were then read as follows:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of all acts or parts of acts now in force, which gives to sheriffs and constables in this commonwealth, half commission for the collection of any moneys, under or by virtue of any execution, shall be, and the same is hereby, repealed.

§ 2. *And be it further enacted*, That so much of every act, or parts of acts, which grants sheriffs the sum of five per centum, and constables the sum of six per centum, as commission, for the collection of any moneys, under or by virtue of any execution put into their hands for collection, shall be, and the same is hereby, repealed: And the said sheriffs shall hereafter be allowed the sum of four per centum, and the said constables the sum of four per centum commission, for the collection of any moneys, by virtue of any execution which may hereafter come to their hands, and no more.

§ 3. *And be it further enacted*, That the sheriffs in this commonwealth shall be entitled to receive the fees hereinafter mentioned, for the following services, and no more to-wit: For copying and serving a petition and summons, fifty cents, and where there may be more than one defendant in such petition, fifty cents for each defendant. For executing a *capias ad respondendum*, and taking bail where bail is required by an endorsement on said writ, fifty cents. For executing a *capias*, as aforesaid, in any suit or action where bail is not required by an endorsement thereon, twen-

ty five cents. For serving *scire facias*, for each defendant, thirty seven and a half cents.

§ 4. *And be it further enacted*, That the sheriffs in this commonwealth, shall not hereafter be allowed any fee for summoning a jury to try any action of debt, or petition and summons, founded upon any note or bond for the direct payment of money, depending in any circuit court in this commonwealth (unless ordered by the court as hereinafter provided) when on the calling of said cause or suit as aforesaid, on the docket, no plea is put in or defence made by the defendant or defendants, to the plaintiff's demand: *Provided always*, That whenever the plaintiff shall refuse or be unwilling to take judgment in the common mode by default, in such actions as aforesaid, and when his, her or their right to recover is not contested as aforesaid, and will insist upon having a jury, the same shall be ordered by the court; then, and in that case, it shall be the duty of the sheriff to summon and empannel a jury to try said cause or causes, for which he shall be entitled to the fee now allowed by law in similar cases, to be paid by the plaintiff or plaintiffs, their heirs, executors or administrators.

Strike out the original bill after the enacting clause, and in lieu thereof insert,

That instead of the commissions heretofore allowed by law for the collection of money upon any execution, there shall be allowed to the sheriffs of this commonwealth for their commission, in cases where they are now entitled to commission by the several acts to which this is an amendment, the sum of four per cent. for commission and the sum of two per cent. for their half commission, and no more. And that the said constables, instead of the commissions heretofore allowed by law for the collection of money, by virtue of any execution or other process, shall, and they are hereby allowed for commission, the sum of four per centum, and for half commission, the sum of two per centum, and no more.

§ 2. *And be it further enacted*, That the sheriffs in this commonwealth shall not hereafter be allowed any fee for summoning a jury to try any action of debt or petition and summons, founded upon any note or bond for the direct payment of money, depending in any circuit court in this commonwealth, (unless ordered by the court as hereinafter provided) when on the calling of said cause or suit, as aforesaid, on the docket, no plea is put in or defence made by the defendant or defendants, to the plaintiff's demand: *Provi-*

*ded always*, That whenever the plaintiff shall refuse or be unwilling to take judgment in the common mode by default, in such actions as aforesaid, and when his, her or their right to recover is not contested, as aforesaid, and will insist upon having a jury, the same shall be ordered by the court; then, and in that case, it shall be the duty of the sheriff to summon and empannel a jury, to try said cause or causes, for which he shall be entitled to the fee now allowed by law in similar cases, to be paid by the plaintiff or plaintiffs, their heirs, executors, or administrators.

§ 3. *Be it further enacted*, That all acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

It was then moved and seconded to postpone the further consideration of said bill and amendment until the first day of March next.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Allen and Griffith were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, Brents, Buford, Calhoun, Cogswell, Davis, Eaves, Gaither, Gordon, Green, J. G. Hardin, M. Hardin, Howard, Johnson, Litton, Lockett, Logan, Love, B. Mason, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Mullens, Munford, Noland, Patterson, Pearcy, Pendleton, Shannon, Smith, Speed, Stone of Madison, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, Witherspoon and Yantis—41.

Nays—Messrs. Allen, J. S. Anderson, Brooking, Bruce, Catlett, Cockerill, Cosby, Craig, Cravens, Crawford, Dejarnett, Desha, Duncan, Fletcher, Griffith, Herald, Inglish, Kincheloe, King, Lecompte, Lynch, J. Mason, May, M'Clanahan, M'Connell, M'Cracken, Moore, Murray, Owsley, O'Bannon, Payne, Rudd, Sandford, Selby, Slack, Stone of Wayne, J. Taylor, Wiley, Yancey and Younger—40.

Bills from the senate of the following titles: 1. An act for the benefit of Samuel Lewis; and 2. an act to amend the act altering the mode of taking in lists of taxable property.

Were severally read a third time, the former as amended.

*Resolved*, That the said bills do pass.

*Ordered*, That Mr. M'Connell inform the senate thereof and request their concurrence in the amendments proposed to the former bill.

A bill for the establishment of a literary fund and for other purposes, was read a second time and ordered to be engrossed and read a third time.

And thereupon the rule of the house and constitutional provision being dispensed with, the said bill was read a third time.

It was then moved and seconded, to fill the blank in the first section with "*one half*" as the amount of the net annual profits of the Bank of the Commonwealth, to be appropriated to that object.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. C. H. Taylor and Cravens were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, W. O. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cosby, Craig, Crawford, Davis, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Johnson, Kincheloe, King, Litton, Lockett, Logan, Love, Luckett, B. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Mullens, Munford, Murray, Noland, Owsley, O'Bannon, Patterson, Pearcy, Pendleton, Pope, Rudd, Shannon, Slack, Slaughter, Smith, Talbot, J. Taylor, C. H. Taylor, Todd, White, Wickliffe, Wiley, Witherspoon, Yancey, Yantis and Younger—76.

Nays—messrs. Allen, Cravens, Gaither, Lecompte, Lynch, J. Mason, Payne, Selby, Speed, Stone of Madison, Stone of Wayne, B. Taylor and Warfield—13.

The remaining blank in said bill being filled,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Murray carry the said bill to the senate and request their concurrence.

A message from the governor by mr Anderson:

*Mr. Speaker*.

I am directed by the governor to inform this house, that he did on the 6th instant, approve and sign enrolled bills which originated in this house of the following titles:

An act to authorise the county court of Hendersonto sell one acre of the public square in the town of Henderson.

An act for the benefit of the clerks of the circuit and county courts of Cumberland and Estill, and the surveyor of Casey county.

An act for the benefit of the heirs of Stephen Rossell, deceased.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

On motion,

*Ordered*, That MR. Jackman have leave of absence from the service of this house until Monday next, and MR Hughes for ten days.

An engrossed bill entitled, an act to amend an act concerning a house of public worship, in the town of Frankfort, was read a third time.

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That MR. B. Taylor carry the said bill to the senate and request their concurrence.

An engrossed bill entitled, an act making appropriations for the use of Transylvania University and the Centre College of Kentucky, was read a third time.

And then the house adjourned.

## SATURDAY, DECEMBER 8, 1821.

MR. Howard presented the petition of sundry citizens of Madison county, counter to that presented on yesterday, praying that a part of Madison county may be added to the county of Rockcastle.

MR Slack presented the petition of sundry citizens of Mason county, praying a removal of the Flemingsburg Branch Bank of the Commonwealth of Kentucky, from Flemingsburg to Maysville.

Which petitions were severally received, read and referred to the committee of propositions and grievances.

MR. Brents from the joint committee appointed to examine the report of the Greensburg Branch Bank of the Commonwealth, made the following report, which was received and read, viz:

The committee consisting of the senators and representatives from the counties composing the Greensburg branch bank district of the Bank of the Commonwealth of Kentucky, have had the subjects, to them referred, under their consideration, and have come to the following report thereupon, to wit:

That the paper has been distributed to the several counties and among the individual applicants, according to the principles of the charter, and that the loans, in the opinion of your committee, are well secured; and your committee have not been able to discover, that any person or persons have either directly or indirectly, borrowed larger sums than authorised by law.

*From the senate,*

ELIAS BARBEE,
JOHN GORIN.

*From the house of representatives,*

SAMUEL BRENTS,
JOEL YANCEY,
LIBERTY GREEN,
RICHD. J. MUNFORD,
EDWARDS KING,
JOSEPH G. HARDIN,
JOEL OWSLEY.

On the motion of mr. White,

*Ordered*, That leave be given to bring in a bill to impose a tax upon sales at auction in the town of Louisville, for the benefit of the Louisville Hospital; and that messrs. White, R. C. Anderson, Luckett, Logan and Pearcy, be appointed a committee to prepare and bring in the same.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined an enrolled bill and a resolution of the following titles: An act making compensation to the surveyor and others employed on the part of this state, for running and marking the boundary line between the states of Kentucky and Tennessee; and resolutions in relation to a portion of the public lands of the United States, as a means of creating a fund for promoting education, and to the right of the several states of the Union to a part of the same for that purpose.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

The house took up the amendment proposed by the senate, to a resolution from this house fixing a day for the election of a President and Directors of the Bank of the Commonwealth and branches, a President and Directors of the Bank of Kentucky and other officers.

Which being twice read was concurred in.

*Ordered*, That mr. Warfield inform the senate thereof.

The following bills were reported from the several committees appointed to prepare and bring in the same:

By mr. M'Clanahan—1. A bill for the better regulation of the town of Carlisle in the county of Nicholas.

By mr. Alexander—2. A bill to amend and change the several acts respecting public roads.

By mr. Cravens—3. A bill for the benefit of unfortunate claimants of land in this commonwealth.

By mr. Logan from the committee for courts of justice—4. A bill for the benefit of Andrew Craig.

By mr. Wiley—5. A bill for the benefit of the clerk of the Nicholas circuit court.

Which bills were severally received and read the first time, and ordered to be read a second time.

The yeas and nays being required on reading the second bill a second time by messrs. Dejarnett and Gordon, were as follows, viz:

Yeas—Messrs. Alexander, R. C. Anderson, Bradford, Brents, Buford, Catlett, Cogswell, Cosby, Cowan, Cravens, Crawford, Davis, Desha, Duncan, Fletcher, Garther, Griffith, Inglish, Kincheloe, King, Lockett, Luckett, J. Mason, M'Clanahan, M'Connell, S. M'Elroy, M'Millan, Moore, Mullens, Murray, O'Bannon, Selby, Shannon, Speed, Talbot, J. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Yantis and Younger—45.

Nays—mr. Speaker, messrs. Allen, J. S. Anderson, Brooking, Bruce, W. O. Butler, Calhoun, Clark, Cockerill, Craig, Dejarnett, Eaves, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Howard, Johnson, Litton, Lecompte, Logan, Love, Lynch, B. Mason, H. M'Elroy, M'Cracken, Miller, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Sandford, Slaughter, Smith, Stone of Madison, Stone of Wayne, B. Taylor, Thompson and Yancey—43.

And thereupon the rule of the house, constitutional provision and second reading of the first, fourth and fifth bills being dispensed with, the first was committed to a select committee of messrs. Cogswell, M'Clanahan, Wiley and Talbot; the fifth to a select committee of messrs. Fletcher, Wiley and M'Clanahan; and the fourth was ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the fourth bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. carry the said bill to the senate and request their concurrence.

Mr. Younger from the select committee to whom was referred, a bill for the benefit of the heirs of William Shannon, dec. reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be amended to read "an act for the benefit of the heirs of William Shannon and James Bristow.

*Ordered*, That mr. Younger carry the said bill to the senate and request their concurrence.

Mr. Cogswell from the select committee to whom was referred, a bill for the better regulation of the town of Carlisle in the county of Nicholas, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be amended to read "an act for the better regulation of the towns of Carlisle and Springfield."

*Ordered*, That mr M'Clanahan carry the said bill to the senate and request their concurrence.

Mr. Murray from the joint committee appointed to examine the report of the President and Directors of the sixth Bank district, made a report, which was received and read as follows:

The joint committee appointed to examine the report of the branch of the Bank of the Commonwealth for the sixth district, composed of the counties of Ohio, Grayson, Breckinridge, Daviess, Henderson and Union, ask leave to report:

That in compliance with the resolution under which they were appointed to act, they have had said report under consideration, and submit the following as the result of their examinations.

They find that previous to the first day of October last, which is the date of the report, a just proportion of 2,500,000 dollars, had been loaned to each county composing said district, with the exception of small balances in a few cases, which are regarded by the committee as unimportant.

It appears also, that no director in this branch has received a greater accommodation than was contemplated by the charter—that a majority of them have not received more than half that amount, and that the director for one of the counties has not received any loan.

It appears, also, to the committee, that the loans have been greatly diffused, and that in no instance has a greater amount been loaned to any individual, than was authorised by the charter. There are but few loans to persons, not directors, exceeding in amount three hundred dollars, and it is believed, that a majority of the loans are less than one hundred dollars.

As it regards the security of the debts to this branch, the committee are able to state, that in every instance, the proper number of securities has been required—that the loans appear to be generally well secured, and that they have not been able to detect any case in which they would be justified in stating that the debt is not safe.

It is thought proper to state further, that the report submitted to them exhibits in its matter and execution, a degree of attention to the interests of the institution, and the intentions of the legislature highly creditable to its officers.

*From the Senate,*

N. D. ANDERSON.

*From the House of Representatives.*

DAVID R. MURRAY,
WILLIAM INGLISH,
JOHN CALHOUN,
FRANCIS LOCKETT,
BENJ. DUNCAN,
HUGH M'ELROY.

Mr. Fletcher from the select committee to whom was referred, a bill from the senate entitled, an act to regulate trials of the right of property in the country, and the amendment proposed thereto by a former select committee, reported the same without further amendment.

*Ordered*, That the said bill and amendment be recommitted to a select committee of messrs. Wickliffe, Brents, Logan, Warfield, Cowan and Moore.

mr. Cowan from the select committee to whom was referred, a bill authorising the sale of the real estate of Isabella Razer, dec. reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision, and third reading of the said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title be amended to read, "an act authorising the sale of the real estate and slaves of certain persons."

*Ordered*, That mr. Cowan carry the said bill to the senate and request their concurrence.

*Ordered*, That the rule of the house, constitutional provision, and first and second readings of a bill from the senate entitled, an act forming the county of Lawrence out of parts of the counties of Greenup and Floyd, be dispensed with, and that the said bill be committed to a select committee of messrs. May, Catlett, Fletcher and Warfield.

A message from the senate by Mr. Lee, their secretary: *Mr. Speaker*,

The senate have received official information, that the governor did on the 6th instant, approve and sign enrolled bills which originated in that house of the following titles:

An act to encourage the publication of a digest of the statute law of Kentucky.

An act to amend an act establishing a seminary in Rockcastle county, and for other purposes.

An act to extend the limits of the town of Princeton, to legalize the proceedings of the trustees thereof and give them additional powers, and for other purposes.

An act for the benefit of Polly Parker and children, and for other purposes.

They concur in the amendments proposed by this house, to bills from the senate of the following titles: An act for the benefit of Samuel Lewis and others; and an act to authorise the sale of part of the real estate of Alexander Dunbor, deceased. They disagree to a bill which originated in this house, entitled, an act for the removal of the seat of justice of Campbell county. They have passed bills from this house of the following titles: An act authorising the register to perform certain duties; an act to regulate the Bath seminary in Bath county; an act for the relief of the widow and heirs of George Chism, deceased; an act for the

benefit of the heirs of Abraham Carter, deceased; an act to amend the act incorporating the shareholders and directors of the Lexington Library; an act for the benefit of the heirs of James M'Knight; An act to alter and amend the fifth section of an act entitled, an act to amend and reduce into one the several acts regulating Middletown in Jefferson county; an act to ascertain and mark the division line between the counties of Grant, Boone and Gallatin, with amendments to the latter. And they have passed a bill entitled, an act for the benefit of the legatees of William Kinkead, deceased—in which amendments and bill they request the concurrence of this house.

And then he withdrew.

A bill entitled, an act making appropriations for the use of the Transylvania University and the Centre College of Kentucky, was again taken up.

It was then moved and seconded to postpone the further consideration of said bill and amendment until the first day of March next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Inglish and M. Hardin, were as follows, viz:

Yeas—messrs. Allen, J. S. Anderson, Buford, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gaither, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Lynch, B. Mason, M'Clanahan, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Patterson, Pearcy, Pendleton, Rudd, Sandford, Selby, Stone of Madison, Stone of Wayne, J. Taylor, Thompson, Wiley, Yancey, Yantis and Younger—44.

Nays—mr. Speaker, messrs. Alexander, R. C. Anderson, Bradford, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Griffith, Lockett, Logan, Love, Luckett, J. Mason, May, M'Connell, H. M'Elroy, S. M'Elroy, Moore, Murray, O'Bannon, Payne, Pope, Shannon, Slack, Slaughter, Smith, Speed, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon and Worthington—49.

It was then moved and seconded to fill the blank in the first section of said bill with $15,000, as the amount of appropriation to the Transylvania University.

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by messrs. Inglish and M. Hardin, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cosby, Cowan, Craig, Crawford, Davis, Fletcher, Love, Luckett, J. Mason, May, M'Connell, Moore, Pope, Shannon, Slack, Slaughter, Speed, Todd, Warfield, White, Witherspoon and Worthington—33.

Nays—messrs. Allen, J. S. Anderson, Bradford, Buford, Cockerill, Cogswell, Cravens, Dejarnett, Desha, Duncan, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Lynch, B. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, Noland, Owsley, O'Bannon, Patterson, Payne, Pearcy, Pendleton, Rudd, Sandford, Selby, Smith, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Wickliffe, Wiley, Yancey, Yantis and Younger—59.

It was then moved and seconded to fill the said blank with $10,000.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Noland and Cockerill, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Lockett, Love, Luckett, J. Mason, May, M'Connell, Moore, Murray, Pope, Shannon, Slack, Slaughter, Speed, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon and Worthington—41.

Nays—Messrs. Allen, J. S. Anderson, Bradford, Buford, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, Litton, Lecompte, Logan, Lynch, B. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Rudd, Sandford, Selby, Smith, J. Taylor, Thompson, Wiley, Yancey, Yantis and Younger—48.

It was then moved and seconded, to fill the said blank with $8,000.

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by messrs. English and M'Clanahan, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, R. C. Anderson, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Lockett, Love, Luckett, J. Mason, May, M'Connell, Moore, Murray, Pope, Shannon, Slack, Slaughter, Speed, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon and Worthington—41.

Nays—messrs. Allen, J. S. Anderson, Bradford, Buford, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Logan, Lynch, B. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Rudd, Sandford, Selby, Smith, Stone of Wayne, J. Taylor, Thompson, Wiley, Yancey, Yantis and Younger—52.

It was then moved and seconded to fill the said blank with $5.000.

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by messrs. Munford and Cockerill, were as follows:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Bradford, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Griffith, Lockett, Logan, Love, Luckett, J. Mason, May, M'Connell, Moore, Murray, Pope, Shannon, Slack, Slaughter, Speed, Talbot, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon and Worthington—44.

Nays—messrs. Allen, J. S. Anderson, Buford, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gaither, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Lynch, B. Mason, M'Clanahan, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Rudd, Sandford, Selby, Smith, Stone of Wayne, J. Taylor, Thompson, Wiley, Yancey, Yantis and Younger—46.

It was then moved and seconded to fill the said blank with $4,000.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Noland and Lynch, were as follows, to wit:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Bradford, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Griffith, Lockett, Logan, Love, Luckett, J. Mason, May, M'Connell, H. M'Elroy, Moore, Murray, Pope, Shannon, Slack, Slaughter, Speed, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon and Worthington—43.

Nays—messrs. Allen, J. S. Anderson, Buford, Calhoun, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gaither, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Lynch, B. Mason, M'Clanahan, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland Owsley, Patterson, Payne, Pearcy, Pendleton, Rudd, Sandford, Selby, Smith, Stone of Wayne, J. Taylor, Wiley, Yancey, Yantis and Younger—46.

It was then moved and seconded to commit the said bill to a select committee for amendment.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Eaves and were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, R. C. Anderson, Bradford, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Fletcher, Gaither, Griffith, Howard, Love, Luckett, J. Mason, H. M'Elroy, Moore, Murray, Payne, Pope, Shannon, Slack, Smith, Speed, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon, Worthington and Yantis—44.

Nays—messrs. Allen, J. S. Anderson, Cockerill, Dejarnett, Desha, Duncan, Eaves, Gordon, Green, J. G. Hardin, M. Hardin, Herald, Inglish, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Lynch, B. Mason, May, M'Clanahan, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Patterson, Pearcy, Pendleton, Sandford, Selby, Slaughter, Stone of Wayne, Talbot, J. Taylor, Wiley, Yancey and Younger—43.

*Ordered*, That the bill be committed to a select committee of messrs. Shannon, R. C. Anderson, Pope, Wickliffe, Payne, Smith, Warfield and Moore.

And then the house adjourned.

## MONDAY, DECEMBER 10, 1821.

Mr. Calhoun presented the petition of sundry citizens of Breckinridge, Grayson and Ohio counties, praying for the formation of a new county out of a part of each of said counties.

Mr. Lynch presented the petition of John Wilson, praying a divorce from his wife, Elizabeth.

And mr. Rudd presented the petition of sundry citizens of Bracken county, praying that a law may pass to compel the owners of slaves to treat them with humanity, pursuant to the provisions of the 7th article of the constitution of this state.

Which petitions were severally received, read and referred; the first to the committee of propositions and grievances; the second to the committee of religion; and the third to a select committee of messrs. Rudd, Payne, Clark, Calhoun and Brents, giving said committee leave to report thereon by bill or otherwise.

Mr. Luckett from the select committee to whom was referred, a bill for the benefit of mechanics, reported the same without amendment.

The said bill was again read; and the question being taken on engrossing the said bill and reading it a third time, it was decided in the negative, and so the said bill was rejected.

The yeas and nays being required thereon by messrs. Luckett and C. H. Taylor, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, Allen, R. C. Anderson, Bradford, Brents, W. O. Butler, Catlett, Cowan, Craig, Cravens, Crawford, Desha, Gaither, M. Hardin, Kincheloe, Lecompte, Love, Luckett, J. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan Moore, O'Bannon, Payne, Rudd, Sandford, Shannon, Slack, Slaughter, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Witherspoon, Worthington and Yantis—41.

Nays—messrs. J. S. Anderson, Barnett, Brooking, Bruce, Calhoun, Clark, Cockerill, Cogswell, Cosby, Dejarnett, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Inglish, King, Lit-

ton, Lockett, Logan, Lynch, B. Mason, May, M'Cracken, Miller, Munford, Murray, Noland, Owsley, Pearcy, Pendleton, Selby, Smith, Speed, Stone of Madison, Stone of Wayne, B. Taylor, J. Taylor, Wiley and Yancey—44.

Mr. Anderson from the select committee appointed for that purpose, reported a bill laying a tax upon sales at auction in the town of Louisville for the benefit of the Louisville Hospital.

Which was received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of said bill being dispensed with, the same was committed to a select committee of messrs. R. C. Anderson, Luckett, B. Taylor and White.

Mr. May from the select committee to whom was referred, a bill from the senate entitled, an act forming the county of Lawrence out of parts of the counties of Greenup and Floyd, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered*, That the said bill as amended, be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with,

*Resolved*, That the said bill as amended do pass.

*Ordered*, That mr. May inform the senate thereof and request their concurrence in the said amendment.

Mr. Wickliffe from the select committee to whom was referred, a bill from the senate entitled, an act to regulate trials of the right of property in the country, reported the same with amendments.

Which being twice read were concurred in.

*Ordered*, That the said bill as amended be read a third time to morrow.

Leave was given to bring in the following bills:

On the motion of mr. Howard—1. A bill providing a mode for this state receiving her dividend at the commonwealth's bank.

On the motion of mr. Warfield—2. A bill to change the name of the town of Marysville in Harrison county.

On the motion of mr. Slaughter—3. A bill for the relief of the sheriff of Warren county.

Messrs. Howard, Brents, Yantis, Dejarnett and Smith were appointed a committee to prepare and bring in the first; messrs. Warfield, Griffith and M'Clanahan the second; and messrs. Slaughter, Brooking and A. Butler the third.

Mr. Clark read and laid on the table the following resolutions:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That they view with deep and unaffected concern, some of the late decisions of the Federal Judiciary, involving the dearest interests of Freemen, annihilating state rights, and verging in their consequences to a consolidation of government, through the medium of a supreme, and nominally responsible judiciary.

*Resolved*, That the occupying claimant law, the replevy and endorsement laws, and the act of 1809, with the following appropriate and memorable preamble, "Whereas, the prosperity of this commmonwealth hath been greatly checked, its improvement and settlement retarded, and its citizens continually alarmed and often ruined in their fortunes by reason of the interference of land claims, founded, or alleged to be founded on the land laws of Virginia, or of this state; as claims dormant and utterly unknown to the neighborhood of a disputed tract of land, are often brought up, not only to alarm, but eventually to cast out naked to the world, numerous well settled and industrious families; as late and inferior claims to land are hoarded up and concealed until the witnesses to establish the elder and superior title shall be dead, or removed to remote places, or until the property may have fallen into the hands of persons ignorant of the sources of proof respecting it; and as these evils, instead of passing away as was once hoped, with the lapse of *time, are still increasing*," are constitutional and valid, founded in justice and good faith, and promotive of the interests, the tranquility and happiness of the citizens of this commonwealth.

*Resolved, therefore*, That the commissioners to be appointed to oppose the opinion of the supreme court, as pronounced in the case of Green versus Biddle, be, and they are hereby required, to vindicate and support in said court, the validity and constitutionality of said laws.

*Ordered*, That the public printers forthwith print 150 copies of said resolution for the use of the members of this house.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By mr. Howard—1. A bill providing a mode for this state receiving her dividend at the commonwealth's bank.

By mr. Warfield—2. A bill to alter and change the name of the town of Marysville in Harrison county.

By mr. Slaughter—3. A bill for the relief of the sheriff of Warren county.

And by mr. R. C. Anderson—4. A bill for the benefit of the heirs of Israel Thompson.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the first, second and third bills being dispensed with, the former was committed to a select committee of messrs. Murray, Brents, Yantis and Howard; and the second and third were ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the second and third bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That mr. Warfield carry the said bills to the senate and request their concurrence.

On the motion of mr. Payne,

*Ordered*, That leave be given to bring in a bill to alter the mode of appointing trustees of the Montgomery academy; and that messrs. Payne, J. Mason and Fletcher be appointed a committee to prepare and bring in the same.

On the motion of mr. Cogswell,

*Ordered*, That the vote *rejecting* a bill for the benefit of mechanics be reconsidered; and that the same be committed to a select committee of messrs. Wickliffe, Luckett, Cogswell, R. C. Anderson and O'Bannon.

mr. Wickliffe moved the following resolution, viz:

*Resolved*, That the committee of claims be instructed to report a bill for the appropriation of money.

Which being twice read was adopted.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker*,

I am directed by the governor to lay before you a written message.

And then he withdrew.

A message from the senate by mr. M'Afee:

*Mr. Speaker*,

The senate have passed a bill entitled, an act providing for the sale of the vacant lands west of the Tennessee river—in which bill they request the concurrence of this house.

And then he withdrew.

An engrossed bill entitled, an act to restrict the county courts in laying their levies and the mode of letting their public buildings, was read a third time and committed to a select committee of messrs. Talbot, M'Millan, Logan, Yancey, Gordon and Lockett.

A message from the senate by mr. Perrin:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act to alter and change the name of the town of Marysville in Harrison county.

And then he withdrew.

A message from the senate by mr. Ward:

*Mr. Speaker,*

The senate concur in the amendment proposed by this house to a bill from the senate entitled, an act forming the county of Lawrence out of the counties of Greenup and Floyd.

And then he withdrew.

A message from the senate by mr. Owens:

*Mr. Speaker,*

The senate have passed a bill, entitled, an act for the benefit of the sheriffs of Wayne and Campbell counties—in which bill they request the concurrence of this house.

And then he withdrew.

A bill from the senate entitled, an act to amend an act to regulate endorsements on executions; was read a third time as amended.

*Resolved,* That the said bill as amended do pass.

*Ordered,* That mr. Brents inform the senate thereof and request their concurrence in the said amendment.

An engrossed bill entitled, an act to amend the act for surveying the military claims west of the Tennessee river, was read a third time.

*Resolved,* That the said bill do pass and that the title thereof be as aforesaid.

*Ordered,* That mr. Brents carry the said bill to the senate and request their concurrence.

The following bills were severally read a second time: 1. A bill to reduce the public revenue; 2. a bill to amend an act appointing persons to view a way for a road from Danville to the Tennessee line; 3. a bill to amend the acts relating to the Penitentiary; 4. A bill for the benefit of Champ Mullens; 5. a bill to regulate the mode of granting the vacant lands of this commonwealth.

The 1st, 3d and 4th, were severally ordered to be engrossed and read a third time; the second was committed to a select committee of messrs. King, J. G. Hardin, Gaither, Owsley, Yancey and Selby.

And the question being taken on engrossing the fifth bill and reading it a third time, it was decided in the negative; and so the said bill was rejected.

The yeas and nays being required on the engrossment of the first bill by messrs. Yancey and C. H. Taylor were as follows, viz:

Yeas—messrs. J. S. Anderson, Brooking, Cockerill, Cogswell, Cravens, Crawford, Dejarnett, Duncan, Eaves, Fletcher, Gaither, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Litton, Lecompte, Lynch, B. Mason, J. Mason, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Mullens, Munford, Noland, Owsley, O'Bannon, Payne, Pearcy, Pendleton, Rudd, Selby, Smith, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Wiley, Yancey, and Younger—47.

Nays—mr. Speaker, messrs. Alexander, Allen, R. C. Anderson, Barnett, Bradford, Brents, Bruce, A. Butler, Calhoun, Catlett, Clark, Cosby, Cowan, Craig, Desha, Howard, Kincheloe, Lockett, Logan, Love, Luckett, May, M'Connell, M'Cracken, Moore, Murray, Pope, Sandford, Shannon, Slack, Slaughter, Speed, Warfield, White, Wickliffe, Witherspoon and Yantis—38.

And thereupon the rule of the house, constitutional provision and third reading of the fourth bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Smith carry the said bill to the senate and request their concurrence.

A bill from the senate entitled, an act for repairing and improving the Penitentiary, was read the first time and ordered to be read a second time.

And the rule of the house, constitutional provision and second reading thereof being dispensed with, it was amended and ordered to be read a third time, to morrow.

A bill to regulate the times of holding circuit courts in this commonwealth, was taken up and amended.

It was then moved and seconded to attach to said bill the following words: "All laws requiring judges of the circuit courts of this commonwealth to reside in their respective districts, shall be, and the same are hereby repealed,"

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by messrs. M'Millan and C. H Taylor, were as follows, viz:

Yeas—mr. Speaker, R. C. Anderson, Barnett, Brents, Brooking, Bruce, A. Butler, Calhoun, Clark, Cosby, Cowan, Craig, Eaves, Fletcher, Gaither, Gordon, J. G. Hardin, Johnson, King, Litton, Lockett, Logan, Love, Luckett, B. Mason, M'Connell, S. M'Elroy, Moore, Pope, Selby, Slack, Smith, Stone of Wayne, Talbot, Thompson, Todd, Warfield, White, Witherspoon, Worthington and Yantis—41.

Nays—messrs. Alexander, Allen, J. S. Anderson, Bradford, Catlett, Cockerill, Cogswell, Cravens, Dejarnett, Desha, Duncan, Green, Griffith, M. Hardin, Herald, English, Kincheloe, Lynch, J. Mason, May, M'Clanahan, H. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, Noland, Owsley, Patterson, Pearcy, Pendleton, Rudd, Sandford, Speed, Stone of Madison, B. Taylor, J. Taylor, C. H. Taylor, Wickliffe, Wiley and Yancey—43.

*Ordered*, That the said bill as amended, be recommitted to a select committee of messrs. Cogswell, Logan, R. C. Anderson, Pope, Shannon and Talbot.

Mr. Calhoun read and laid on the table the following resolution:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That they will hereafter and at the present session, elect two public printers; and that they will divide the public printing as follows, to wit: They will give to one printer the journals of the house of representatives, the bills originating in the same, with the laws enacted at each session and public advertisements; and to the other, the journals of the senate, the bills originating in the same, with the blanks for the several public offices and for inspectors; and in electing those officers, they will designate the particular duties assigned each.

And then the house adjourned.

## TUESDAY, DECEMBER 11, 1821.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills and a resolution of the following titles: An act authorising the register to perform certain duties; an act for the relief of the widow and heirs of George Chism, deceased; an act for the benefit of the heirs of Abraham Carter, deceas-

ed; an act to amend the act incorporating the shareholders and directors of the Lexington Library; an act to alter and amend the fifth section of an act entitled, an act to amend and reduce into one the several acts regulating Middletown in Jefferson county; an act to alter and change the name of the town of Marysville in Harrison county; and a resolution fixing on a day for the election of a President and Directors of the Bank of the Commonwealth and branches, a President and Directors of the Bank of Kentucky and other officers.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. Inglish presented the petition of sundry citizens of Grayson county, counter to that formerly presented, praying for a new county out of parts of Breckinridge, Grayson and Ohio counties.

Which was received, and the reading being dispensed with, was referred to the committee of propositions and grievances.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of sundry citizens of Madison county, praying that a part of said county may be added to the county of Rockcastle, *is reasonable*.

*Resolved*, That the petition of sundry citizens of the counties of Mason and Bracken, praying that the branch of the Bank of the Commonwealth at Flemingsburg may be removed to Maysville, *be rejected*.

Which being twice read was concurred in.

*Ordered*, That the said committee prepare and bring in a bill pursuant to the first resolution.

A message from the senate by Mr. Crutcher:

*Mr. Speaker*,

The senate have passed bills which originated in this house of the following titles: An act to legalize the proceedings of the Nelson county court, at their November term, 1821; an act to amend the law allowing compensation to venire men and witnesses; an act for the benefit of the widow and heirs of John Anderson, dec.; an act for the benefit of Joel Morrison; and an act for the benefit of Polly

Martin: And they have passed a bill entitled, an act to increase the salary of the Treasurer—in which bill they request the concurrence of this house.

And then he withdrew.

The following reports from joint committees appointed to examine the reports of the President and Directors of the several branch banks of the Bank of the Commonwealth, were received and read, viz:

The committee consisting of the senators and representatives from the counties composing the Princeton branch bank district, one of the branches of the Commonwealth's Bank, have had the subject under consideration, and beg leave to make the following report, viz:

The paper has been distributed (so far as we have been able to discover) to the several counties and among the several individual applicants, according to the principles of the charter; and that the loans, in the opinion of your committee, are well secured.

Your committee have not been able to discover, that any person has directly or indirectly borrowed larger sums than authorised by law.

*From the Senate.*

YOUNG EWING,
DICKSON GIVEN,
W. R. WEIR,
WM. WORTHINGTON.

*From the House of Representatives.*

JAS. C. CRAVENS,
WM. GORDON,
JOHN S. ANDERSON,
JOHN PENDLETON,
JOHN S. EAVES,
H. M'CRACKEN,
WM. THOMPSON.

The committee consisting of the senators and representatives from the counties composing the Winchester branch bank district of the Bank of the Commonwealth of Kentucky, have had the subject, to them referred, under their consideration, and have come to the following report thereupon, to-wit:

Your committee are of opinion, that the paper has been distributed to the several counties and among the individual applicants, according to the principles of the charter,

and that, in the opinion of your committee, the debts due said branch bank are well secured.

*From the senate,*

HUMPHREY JONES,
R. HICKMAN.

*From the house of representatives,*

THOS. C. HOWARD,
JAS. STONE.
JAMES DEJARNETT,
JESSE NOLAND,
JAS. M. COGSWELL,
COLBY H. TAYLOR,
NICHOLAS TALBOT,
WM. M'MILLAN.

The committee consisting of the senators and representatives of the second judicial district, having examined the report from the branch bank of the Commonwealth of Kentucky at Falmouth, report as follows:

The paper of said branch has been correctly apportioned and safely loaned in the senatorial districts and counties they represent; and the principles of the charter have not been violated, within their knowledge.

*From the Senate,* WM. MOUNTJOY,
THOS. THROCKMORTON,
THOS. D. CARNEAL,
JOSEPHUS PERRIN,
J. J. MARSHALL.

*From the House of Representatives,*

STEPHEN MULLENS,
S. GRIFFITH,
BEN. JOHNSON,
HUGH WILEY,
BEN. WARFIELD,
W. M'CLANAHAN,
JOHN H. TODD.

The committee composed of the senators and representatives from the several counties composing that bank district attached to the branch bank of the Bank of the Commonwealth located at Bowling Green, having deliberated upon the subject, agree to submit the following report:

That after examining all the evidence furnished by the bank report submitted to this house, and all other testimony within their reach, are ready to declare, that the affairs of the branch bank at Bowling Green, appear to have been conducted with a just regard to the interests of the common-

wealth, the proper and equal distribution of the money and the accommodation of the community; and that the president and directors of that institution, deserve the confidence of the country.

*From the Senate,* THO. S. SLAUGHTER,
ANAK DAWSON.

*From the House of Representatives,*
R. F. SLAUGHTER,
A. BUTLER,
JOHN HARRELD,
JOHNSON J. COCKERILL,
W. LYNCH.
P. N. O'BANNON,
S. S. BROOKING.

Mr. Cogswell from the select committee to whom was referred, a bill to regulate the times of holding circuit courts in this commonwealth, reported the same with an amendment.

Which being twice read was concurred in.

*Ordered,* That the said bill as amended be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved,* That the said bill do pass and that the title thereof be amended to read "an act to regulate the time of holding circuit courts, the general court and county courts in this commonwealth.

*Ordered,* That mr. Brents carry the said bill to the senate and request their concurrence.

Mr. Fletcher from the select committee to whom was referred, a bill for the benefit of the clerk of the Nicholas circuit court, reported the same with an amendment.

Which being twice read was concurred in, and the said bill as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved,* That the said bill do pass and that the title thereof be amended by adding thereto the words 'and for other purposes.'

*Ordered,* That mr. Fletcher carry the said bill to the senate and request their concurrence.

Mr. Wickliffe from the select committee to whom was referred, a bill for the benefit of mechanics, reported the same without amendment.

*Ordered*, That the said bill be engrossed and read a third time to-morrow.

Mr. Talbot from the select committee to whom was referred, an engrossed bill entitled, an act to restrict the county courts in laying their levies and the mode of letting their public buildings, reported the same with an amendment.

Which being twice read was disagreed to, and the said bill being further amended, was, with the amendments, ordered to be re-engrossed and again read a third time to-morrow.

Mr. King from the select committee to whom was referred, a bill to amend an act appointing persons to view a way for a road from Danville to the Tennessee line, reported the same with an amendment.

Which being twice read was concurred in; and the said bill as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision, and third reading of the said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. King carry the said bill to the senate and request their concurrence.

A message from the senate by Mr. White:

*Mr. Speaker*,

The senate have adopted a resolution instructing the members in Congress from Kentucky, to propose an amendment to the federal constitution—in which resolution they request the concurrence of this house.

And then he withdrew.

Mr. Pope presented the petition of sundry citizens of Washington county, praying for the appointment of an additional number of constables in said county.

Which was received and referred to a select committee of messrs. Pope, S. M'Elroy and Cosby, giving said committee leave to report thereon by bill or otherwise.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By mr. M'Clanahan—1. A bill for the benefit of the heirs of Archibald Marshall, deceased.

By mr. Luckett—2. A bill to incorporate the city of Louisville.

And by mr. May—3. A bill for the division of Floyd county.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the first and third bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That mr. M'Clanahan carry the said bills to the senate and request their concurrence.

*Ordered*, That a bill to repeal the charter of the Bank of Kentucky and for other purposes, be placed in the orders of the day.

The house took up the resolution laid on the table yesterday by mr. Calhoun, relative to a division of the public printing.

Which resolution was twice read.

A division of the question was called for upon the adoption of said resolution, and the question was first put on the first branch of the resolution, *declaring that there shall be a division of the public printing.*

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Yancey and Cockerill, were as follows, viz:

Yeas—Messrs. Alexander, Allen, Bradford, Brooking, Bruce, Buford, W. O. Butler, Calhoun, Catlett, Clark, Cowan, Craig, Cravens, Davis, Gaither, M. Hardin, Jackman, Johnson, Lecompte, Lockett, Love, Luckett, B. Mason, H. M'Elroy, M'Millan, M'Cracken, Mullens, Noland, Owsley, O'Bannon, Patterson, Pope, Rudd, Sandford, Shannon, Slack, Slaughter, Talbot, B. Taylor, Thompson, Todd, White and Wickliff—43.

Nays—mr. Speaker, messrs. J. S. Anderson, R. C. Anderson, Barnett, Brents, A. Butler, Cockerill, Cogswell, Cosby, Crawford, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Logan, Lynch, J. Mason, May, M'Clanahan, M'Connell, S. M'Elroy, Miller, Moore, Munford, Murray, Pearcy, Pendleton, Selby, Smith, Speed, Stone of Madison, Stone of Wayne,

J. Taylor, C. H. Taylor, Warfield, Wiley, Witherspoon, Yancey, Yantis and Younger—51.

The said resolution was then disagreed to.

A message from the governor by MR Anderson :

*Mr. Speaker,*

I am directed by the governor to inform this house, that he did on the 10th instant, approve and sign enrolled bills which originated in this house of the following titles :

An act making compensation for the surveyor and others employed on the part of this state for running and marking the boundary line between the states of Kentucky and Tennessee.

Resolutions in relation to a portion of the public lands of the United States, as a means of creating a fund for promoting education, and to the right of the several states of the Union, to a part of the same for that purpose.

And on this day those of the following titles :

A resolution fixing on a day for the election of a President and Directors of the Bank of the Commonwealth and branches, a President and Directors of the Bank of Kentucky and other officers.

An act for the benefit of the heirs of Abraham Carter, deceased.

An act for the relief of the widow and heirs of George Chism, deceased.

An act authorising the register to perform certain duties.

An act to alter and amend the fifth section of an act entitled, an act to amend and reduce into one the several acts regulating Middletown in Jefferson county.

An act to alter and change the name of the town of Marysville in Harrison county.

An act to amend the act incorporating the shareholders and directors of the Lexington Library.

And then he withdrew.

*Ordered*, That MR. Crawford inform the senate thereof.

Mr. Catlett read and laid on the table the following resolutions :

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of August next, the directory of the State Bank be, and they are hereby directed, to reduce the debt at that time due to said institution, at the rate of at least seventeen per centum per annum.

*And be it further resolved*, That they ought not to increase the present debt, previous to the first day of August.

A message from the senate by Mr. Carpenter :

*Mr. Speaker,*

The senate have passed a bill entitled, an act to revive the law against champerty and maintainance—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Hickman:

*Mr. Speaker,*

The senate have passed a bill entitled, an act authorising lotteries for the benefit of Paris Union Lodge, No. 16, and Simpson Lodge, No. 31—in which bill they request the concurrence of this house.

And then he withdrew.

MR. Luckett read and laid on the table the following resolution. viz:

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That the secretary of state of this Commonwealth, be authorised to open a correspondence with the executives of our sister states, on the subject of an interchange of Maps of their respective states; and that he be required to carry into effect the object of this resolution with as little delay as practicable.

MR. King from the select committee to whom was referred, a bill to amend the charter of the Bank of the Commonwealth of Kentucky, reported the same with an amendment, which being amended,

*Ordered*, That the said bill and amendment be recommitted to a select committee of messrs. Cogswell, Catlett, Moore and Brents.

A bill from the senate entitled, an act for the benefit of the sheriffs of Wayne and Campbell counties, was read the first time and ordered to be read a second time.

And the rule of the house, constitutional provision and second and third readings of said bill being dispensed with,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Stone inform the senate thereof.

A message from the senate by mr. Ford:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act for the benefit of the sheriff of Shelby county; and an act for the relief of Culvin Sanders and Elizabeth Davenport, with an amendment to the latter bill—in which they request the concurrence of this house.

And then he withdrew.

A bill to amend the act extending the charter of the bank of Kentucky, was read a second time as follows, viz :

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the president and directors of the Bank of Kentucky, be, and they are hereby authorised and directed, to pay over to the respective owners of stock who have given notice to withdraw, or who may hereafter give notice to withdraw their stock, previous to the expiration of the old charter, approved Dec. 27, 1806, their respective proportions or interests in capital stock of said institution, agreeable to the estimate made under the provisions of the act to amend and extend the charter of the Bank of Kentucky, approved Dec. 26, 1820, in three annual instalments, the first to be made on or before the first day of January, 1823: *Provided, however*, That if any stockholder who may have given notice, or who may hereafter give notice, within the before mentioned time, to withdraw his, her or their stock, will also give a notice in writing, addressed to the president and directors of said institution, that he, she or they, so withdrawing their stock, will receive paper of the Commonwealth's Bank in payment for the same, at the rate of dollars per share, the said president and directors are hereby authorised and directed to pay to such stockholder or stockholders, dollars for each share so withdrawn, on or before the first day of June, 1822: *And provided also*, That if any person or persons owning stock, or withdrawing the same, shall stand indebted to said institution, he, she or they, shall be entitled to claim a credit for such sum or sums, as he, she or they may owe said institution; which shall be allowed by said directory at the aforesaid rates of dollars per share.

§ 2. *Be it further enacted*, That the president and directors be, and they are hereby authorised and directed, to pay over to the cashier of the Commonwealth's Bank, the stock subscribed for on the part of the state, in the same manner and at the same time, as are authorised and directed by the provisions of this act, to withdrawing stockholders.

§ 3. *Be it further enacted*, That the president and directors of each of the branches of the Bank of Kentucky, after receiving their annual appointments and taken the oath of office, shall have the power of appointing immediately thereafter, their own cashiers and clerks, respectively under them, for their respective branches, and the same to remove at pleasure, when they may deem it necessary for the

benefit of the institution: *Provided, however*, That the cashier and clerk elected by the president and directors of each of said branch banks, shall enter into bond and security as heretofore required, made payable to the president, directors and company of the Bank of Kentucky, for the faithful discharge of their respective duties.

§ 4. *Be it further enacted*, That when stockholders are not resident in counties adjoining the county where a branch bank may be located, they shall nevertheless be entitled to vote in the same manner at elections for bank directors, as stockholders are residing in the county where the branch bank is located, or those living in the adjoining counties: *Provided, however*, due regard shall be had to the nearest branch.

§ 5. *Be it further enacted*, That all laws requiring directors to be stockholders in said institution, shall be, and the same are hereby repealed. All acts or parts of acts coming within the purview of this act, shall be, and the same are hereby repealed.

It was then moved and seconded to add to the first section of said bill, by way of amendment, the following words: "And further, they shall give to said stockholder so cancelling his stock, a certificate setting forth the stock so cancelled, stating therein that he shall be entitled to the balance if any, that may be found due on said shares, on the winding up and closing the concerns of said corporation."

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by messrs. Catlett and May, were as follows, viz:

Yeas—Messrs. A. Butler, Catlett, Green, H. M'Elroy, M'Millan, Patterson and Talbot—7.

Nays—Messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brents, Brooking, Bruce, W. O. Butler, Cockerill, Cosby, Craig, Davis, Desha, Duncan, Eaves, Gordon, Griffith, M. Hardin, Herald, Howard, Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Connell, S. M'Elroy, M'Cracken, Miller, Moore, Mullens, Munford, Murray, Owsley, O'Bannon, Pearcy, Pendleton, Pope, Rudd, Selby, Shannon, Smith, Speed, Stone of Madison, Stone of Wayne, B. Taylor, J. Taylor, C. H. Taylor, Warfield, White, Wickliffe, Wiley, Witherspoon, Yancey, Yantis and Younger—66.

A further amendment having been moved to said bill,

The house then adjourned.

## WEDNESDAY, DECEMBER 12, 1821.

Mr. Moore presented the petition of sundry citizens of Mercer, Washington and Casey counties, praying for the formation of a new county out of a part of each of said counties.

And mr. Cowan presented petitions counter thereto.

Which were severally received, read and referred to the committee of propositions and grievances.

A message from the senate by mr. Ewing:

*Mr. Speaker,*

The senate have passed bills of the following titles which originated in this house: An act for the benefit of Richard Clark and Samuel Curswell; an act to appoint additional justices of the peace in the counties of Mason and Rockcastle; an act to change the place of holding elections in the Eagle precinct in Gallatin county and the Walnut Grove precinct in Mercer county. They have passed bills of the following titles: An act to prevent swindling; an act to provide for the sale of the real estate of Thomas Davis, deceased; and an act to amend the several acts relative to lunacy—in which bills they request the concurrence of this house.

And then he withdrew.

Mr. M'Millan from the committee of propositions and grievances, reported a bill to add a part of Madison county to the county of Rockcastle, and a bill authorising the citizens of Trigg county to fix on a place for the permanent seat of justice for said county.

Which bills were received and laid on the table.

*Ordered.* That a message be sent to the senate informing them that this house is now ready by a joint vote with the senate, to proceed to the election of a Public Printer and Treasurer, and Presidents and Directors of the Bank of Kentucky and of the Bank of the Commonwealth, contemplated by a joint resolution of both houses; and that mr. Yantis carry the said message.

A message from the senate by Mr. Perrin:

*Mr. Speaker,*

I am directed by the senate to inform this house, that the senate is now ready by a joint vote with this house to proceed to the election of a Treasurer, Public Printer, President and six Directors of the Bank of Kentucky, and a President and twelve Directors of the Bank of the Com-

monweath; and that the following gentlemen stand on nomination for those offices, viz:

Samuel South, Treasurer.

Public Printer—Kendall & Russell & Jacob H. Holeman.

Bank of Kentucky—John Harvie, President: Daniel Weisiger, John M'Kinney, Jr. Alexander J. Mitchell, Henry Crittenden, Achilles Sneed, Wm. Gerard, Abram Ward, John Love and Joseph M. White, Directors.

Bank of the Commonwealth—John J. Crittenden, President: Willis Field, R. B. Bohannon, George B. Knight, James Bartlett, F. P. Blair, J. Swigert, S. B. Crockett, Amos Kendall, Jepthah Dudley, Joseph Scott, Samuel Tevis, John Smith, L. Wilkinson, Samuel Lewis, B. Hensley, James Hunter, John Castleman, Joseph Pollard and Samuel Todd, Directors.

And that the rule which the senate is disposed to adopt in conducting said election, is the one heretofore observed, of dropping the hindmost candidate, until a majority of the whole number of members voting, shall be obtained in favor of those elected to fill the several offices.

And then he withdrew.

The house then proceeded to said elections and after taking several votes, messrs. Yantis, Calhoun, Yancey and Howard, were appointed a committee on the part of this house to meet such committee as shall be appointed on the part of the senate, to compare the votes and report the state of the same.

The said committee then retired, and after a short time returned, when mr. Yantis reported,

That mr. Samuel South had an unanimous vote for Treasurer:

That the joint vote for Public Printer stood thus: For messrs. Kendall & Russell, 102; for mr. Jacob H. Holeman, 30:

That mr. John Harvie was elected President of the Bank of Kentucky, without opposition; and that the joint vote for Directors of that institution, stood thus: For mr. Daniel Weisiger, 110; John M'Kinney, Jr. 103; Alexander J. Mitchell, 101; Henry Crittenden, 101; Achilles Sneed, 104; William Gerard, 44; Abram Ward, 111; J. Love, 30; Joseph M. White, 93:

That mr. John J. Crittenden had an unanimous vote for President of the Bank of the Commonwealth of Kentucky; and that the joint vote for Directors of that institution, stood thus: For Willis Field, 123; R. B. Bohannon, 57;

G. B. Knight, 128; J. Bartlett, 120; F. P. Blair, 122; Jacob Swigert, 120; S. B. Crockett, 107; A. Kendall, 109; J. Dudley, 114; Joseph Scott, 94; Samuel Tevis, 75; John Smith, 9; L. Wilkinson, 105; Samuel Lewis, 72; B. Hensley, 31; James Hunter, 39; John Castleman, 43; Joseph Pollard, 5; and Samuel Todd, 115.

Whereupon, mr. Samuel South was declared duly elected Treasurer of this Commonwealth for the ensuing year; messrs. Kendall and Russell, Public Printers; mr. John Harvie, President of the Bank of Kentucky, and messrs. Daniel Weisiger, John M'Kinney, Jr. Alexander J. Mitchell, Henry Crittenden, Achilles Sneed and Abram Ward, Directors of that institution; mr. John J. Crittenden, was declared duly elected President of the Bank of the Commonwealth of Kentucky, and messrs. Willis Field, George B. Knight, J. Bartlett, F. P. Blair, J. Swigert, Samuel B. Crockett, Amos Kendall, Jephthah Dudley, Joseph Scott, Saml. Tevis, Lyddall Wilkinson and Saml. Todd, Directors.

After exchanging nominations with the senate for Presidents and Directors of the several Branch Banks of the Bank of the Commonwealth and taking several votes for those officers, and appointing a committee on the part of this house to meet a committee from the senate, to compare the votes taken,

The house then adjourned.

## THURSDAY, DECEMBER 13, 1821.

A message from the senate by Mr. Throckmorton:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act authorising the county courts of Bracken, Mason and Fayette, to purchase and erect buildings for the accommodation of their poor, with an amendment—in which they request the concurrence of this house.

And then he withdrew.

Mr. Yantis from the joint committee appointed to compare the vote of the senate and house of representatives taken on yesterday, for Presidents and Directors of the several Branch Banks of the Commonwealth's Bank, reported that the committee had discharged that duty, and the following persons were thereupon declared duly elected, viz:

*Flemingsburg Branch Bank.*

For President, Wm. P. Fleming. For Directors, Geo. W. Botts, John D. Stockton, James Alexander, William

Hodge, James Morris, Charles Ward, Larkin Anderson and Aaron Owens.

*For the second Bank District, at Falmouth.*

For President, Press. G. Kennett. For Directors, Jas. Wilson, James King, Samuel Huey, Joseph K. Glenn, Isaac Miller, John Baker, Willis Graves and William Clark.

*For the third Bank District, at Lexington.*

For President, Charles Humphreys. For Directors, John Bradford, Elisha Warfield, Wm. R. Morton, Thomas Wallace, Matthew Kennedy, Elijah Craig, David Thompson and Samuel M'Hatton.

*For the fifth District, at Louisville.*

For President, James W. Denney. For Directors, Geo. W. Chambers, Benj. Lawrence, Charles L. Harrison, Samuel Brown, John Rowan, Weir Tilford, Benj. Helm, and Martin H. Wickliffe.

*For the sixth District, at Hartford.*

For President, Charles M'Creery. For Directors, Chas. Henderson, Richard L. Walker, Robert Mosely, John Murray, Wm. Love, James Hillyer, Joshua H. Davis and John Field.

*For the seventh District, at Princeton.*

For President, John H. Phelps. For Directors, Enoch Prince, Joseph R. Given, Mercer Wadlington, Berry Hodge, Robert P. Henry, Thomas G. Davis, John Gray and Willis Morgan.

*For the eighth District, at Greensburg.*

For President, James Allen. For Directors, Joseph Aiken, Elijah Creel, Henry Embry, Wm. T. Bush, Alexander Miller, George T. Wood, Radford Maxey and Milton King.

*For the ninth District, at Harrodsburg.*

For President, Samuel Daviess. For Directors, Joel P. Williams, Wm. Robertson, Beriah Magoffin, Christopher Chism, David L. M'Kee, John H. Hanly, Jesse Coffee and Nathan H. Hall.

*For the tenth District, at Winchester.*

For President, James Anderson. For Directors, Thomas G. Jones, John Miles, Lewis Grigsby, James Sympson, Wm. Goodloe, Richard Oldham, Jr. Tandy Allen and Hugh Talbot.

*For the eleventh District, at Mountsterling.*

For President, George Howard. For Directors, Micajah Harrison, Samuel D. Everett, John Williams, Paul

Burrett, James M'Ilheny, Thomas D. Owings, James Ward, Jr. and Henry B. Mayo.

*Twelfth District, at Somerset.*

For President, Wm. Fox. For Directors, John Griffin, Henry James, Adam Wilson, Uriah Grisham, John Chrisman, Benjamin Eve, Joseph Porter and Charles Hays.

*For the Branch Bank at Bowling Green.*

For President, John Loving. For Directors, Wm. Blakey, James T. Morehead, Alex. Graham, William Bell, Richard B. Dallam, George W. Call, Wm. J. Williams and John Wills.

After exchanging nominations with the senate for Trustees of the Transylvania University, and taking a vote, and appointing a committee to meet a committee from the senate to compare votes, the following gentlemen were declared unanimously elected, viz: James Morrison, Henry Clay, col. James Trotter, Thomas Bodley, G. T. Chapman, George Clark, James Fishback, Elisha Warfield, E. J. Winter, Charles Humphreys, Edmund Bullock, John W. Hunt and Andrew F. Price.

A bill from the senate entitled, an act to provide for the sale of the vacant lands west of the Tennessee river, was read the first time and ordered to be read a second time.

And the rule of the house, constitutional provision and second reading of said bill being dispensed with, the same was laid on the table.

*Ordered*, That the public printers forthwith print 150 copies of said bill for the use of the members of this house.

MR. Anderson from the select committee to whom was referred, a bill taxing sales at auction in the town of Louisville, for the benefit of the Louisville Hospital, reported the same with an amendment.

Which being twice read was concurred in, and the said bill as amended, ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That MR. Anderson carry the said bill to the senate and request their concurrence.

A message from the senate by mr. Roper:

*Mr. Speaker,*

The senate have adopted resolutions concerning the occupying claimant laws and the decision of the supreme court of the United states thereon, with amendments—in which amendments they request the concurrence of this house.

And then he withdrew.

MR. Moore from the select committee to whom was referred, a bill from the senate entitled, an act to abolish imprisonment for debt and subject equitable interests to execution. reported the same without amendment.

It was then moved and seconded to amend said bill by adding thereto the following section.

*Be it further enacted*, That if the defendant or defendants, mortgagee, trustee, *cestui qui trust*, or other person to whom a beneficial interest may have been reserved out of said estate, should not redeem the said estate so sold, within two years, according to the provisions of the fifth section of this act, that it shall be the duty of the court from which the execution, decree or order of sale issued, under which said sale was made, upon motion, of which motion ten days notice in writing shall be given to the original debtor and the person who may be in possession of said estate, to award a writ of *habere facias*, if the court shall be satisfied that the estate has not been redeemed, and that the estate is not possessed by any person having a right in law and equity to the same.

And the question being taken on agreeing thereto, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Talbot and Moore, were as follows, viz :

Yeas—MESSRS. J. S. Anderson, R. C. Anderson, Barnett, Bradford, W. O. Butler, Calhoun, Cogswell, Cosby, Crawford, Dejarnett, Desha, Eaves, Gordon, Green, Griffith, M. Hardin, Herald, Howard, Kincheloe, Litton. Lockett, Logan, Lynch, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Murray, Noland, Patterson, Payne, Pearcy, Pendleton, Selby, Slack, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Warfield, White, Wickliffe, Wiley, Witherspoon, Yancey and Younger—54.

Nays— MR. Speaker, messrs. Alexander, Allen, Brents, Brooking, Bruce, Buford, A. Butler. Catlett, Clark, Cockerill, Cowan, Craig, Cravens, Davis, Duncan, Fletcher, Gaither, J. G. Hardin, Inglish, Jackman, Johnson, King, Lecompte, Love, Luckett, B. Mason, J. Mason, May, M'-

Clanahan, Moore, Mullens, Owsley, O'Bannon, Pope, Rudd, Sandford, Shannon, Slaughter, Todd and Yantis—41.

It was then moved and seconded further to amend said bill by adding thereto the following section, viz:

*Be it further enacted*, That if the person or persons authorised by the fifth section of this act, shall not within two years redeem said estate, so sold, according to the provisions of said fifth section of this act, that then, and in that case, he, she or they shall be liable to the purchaser for all damages he, she or they may have committed after the sale, on the premises.

And the question being taken thereon it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Wickliffe and Speed, were as follows, viz:

Yeas—messrs. J. S. Anderson, R. C. Anderson, Barnett, Bradford, Bruce, W. O. Butler, Cogswell, Cosby, Crawford, Dejarnett, Desha, Eaves, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, Litton, Lockett, Logan, Lynch, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Murray, Noland, Patterson, Payne, Pearcy, Pendleton, Selby, Slack, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Warfield, White, Wickliffe, Wiley, Witherspoon, Yancey, Yantis and Younger—57.

Nays—mr. Speaker, messrs. Alexander, Allen, Brents, Brooking, Buford, Calhoun, Catlett, Clark, Cockerill, Cowan, Craig, Cravens, Davis, Duncan, Fletcher, Gaither, Jackman, Johnson, Lecompte, Love, Luckett, B. Mason, J. Mason, May, M'Clanahan, Moore, Mullens, Owsley, O'Bannon, Pope, Rudd, Sandford, Shannon, Slaughter and Todd—36.

It was then moved and seconded, to amend said bill by attaching thereto the following section, viz:

*Be it further enacted*, That if any suit or suits, involving the possession or title of said estate, so sold as aforesaid, under this act, subject to redemption as provided by the fifth section, shall be commenced after the sale of said estate and before the term of two years expires after the sale, and before the purchaser obtains actual possession, no judgment or decree shall be pronounced in said suit, unless the purchaser, if residing within the state, be notified first thereof, or notice left at his usual place of residence at

least one month before the term at which said suit may be decided.

And the question being taken on agreeing thereto, it was decided in the negative.

The yeas and nays being required thereon by messrs. J. Mason and Catlett were as follows, viz:

Yeas—Messrs. Barnett, Howard, Kincheloe, Lynch, H. M'Elroy, Noland, Shannon, Slack, Speed, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Warfield and Wickliffe—15.

Nays—Mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, W. O. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, King, Litton, Lecompte, Lockett, Logan, Love, Luckett, B. Mason, J. Mason, May, M'Clanahan, M'Connell, S. M'Elroy, M'Millan, Miller, Moore, Mullens, Munford, Murray, Owsley, O'Bannon, Patterson, Payne, Pearcy, Pendleton, Pope, Rudd, Sandford, Slaughter, Smith, B. Taylor, C. H. Taylor, Thompson, Todd, Wiley, Witherspoon, Yancey, Yantis and Younger—75.

And then the house adjourned.

## FRIDAY, DECEMBER 14, 1821.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles, and had found the same truly enrolled, viz: An act to regulate the Bath seminary in Bath county; an act for the benefit of the heirs of James M'Knight; an act to legalize the proceedings of the Nelson county court at their November term, 1821; an act for the benefit of the widow and heirs of John Anderson, dec.; an act to amend the law allowing compensation to venire men and witnesses; an act for the benefit of Joel Morrison; an act for the benefit of Polly Martin; an act for the benefit of Richard Clark and Samuel Curswell; an act to appoint additional justices of the peace in the counties of Mason and Rockcastle; an act to alter the place of holding elections in the Eagle precinct in the county of Gallatin, and the Walnut Grove precinct in Mercer county, an act for the relief of the sheriff of Shelby county; an act to

amend the act altering the mode of taking in lists of taxable property; an act for the benefit of Samuel Lewis and others; an act for the benefit of the widow and heirs of John R. Chitwood; an act forming the county of Lawrence out of parts of the counties of Greenup and Floyd; an act to authorise the sale of part of the real estate of Alexander Dunbar and of Henry Wax, deceased; an act for the benefit of the sheriffs of Wayne and Campbell counties.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

The Speaker laid before the house the petition of sundry citizens of Mason county, praying that the several laws of this commonwealth on the subject of slaves and free persons of color, may be amended.

Which petition was read and referred to a select committee of messrs. Speed, Todd, Fletcher, B. Taylor, R. C. Anderson, Logan, Desha and Catlett.

Mr. M'Millan from the committee of propositions and grievances, made the following report, viz:

The committee of propositions and grievances have, according to order, had under consideration sundry petitions to them referred, and have come to the following resolutions thereupon, to wit:

*Resolved*, That the petition of sundry citizens of Franklin county, residing on the south side of the Kentucky river, praying that a law may pass authorising and directing the county court of said county to levy a tax on said county for the purpose of enabling the citizens on the south side of the Kentucky river, to attend their seat of justice free from bridge or turnpike toll, when attending courts and other public duties, *be rejected*.

*Resolved*, That the petition for a new county out of the counties of Grayson, Breckinridge and Ohio, *be rejected*.

*Resolved*, That the petition for a new county out of the counties of Washington, Mercer and Casey, *is reasonable*.

Which being twice read the first resolution was concurred in, and the second and third laid on the table until the 1st day of July next.

A message from the senate by mr. Ewing:

*Mr. Speaker*,

I am directed by the senate, to request the withdrawal of a report from the senate, concurring, with an amendment, in the resolutions which originated in this house, concerning the occupying claimant laws of this state and the opinion of the supreme court thereon.

And then he withdrew.

*Ordered*, That permission be given to withdraw said report and resolutions, and that mr. Pope inform the senate thereof.

Mr. Fletcher from the joint committee appointed to examine the report of the President and Directors of the Mountsterling Branch of the Commonwealth's Bank, and mr. Pearcy from the joint committee appointed to examine the report of the principal Bank, made the following reports, which were received and read, viz:

The committee consisting of the senators and representatives from the counties of Montgomery, Bath, Greenup and Floyd, composing the Mountsterling bank district, one of the branches of the Commonwealth's Bank, have had the subject under consideration, and beg leave to make the following report, viz.

That the paper of said branch bank has been distributed (so far as we have been able to discover) to the several counties, and amongst the several applicants, according to their necessities and the principles of the charter establishing said bank; and that the loans, in the opinion of your committee, are generally well secured. Your committee have not been able to discover that any person has, directly or indirectly, borrowed a larger sum than is authorised by law.

*From the Senate,*

SAMUEL L. WILLIAMS,
ALEXANDER LACKEY,
THOMSON WARD.

*From the House of Representatives.*

HORATIO CATLETT,
SAMUEL MAY,
JOHN MASON, Jr.
THOMAS FLETCHER,
J. PAYNE.

The committee consisting of the senators and representatives from the counties in which the principal Bank of the Commonwealth of Kentucky is located, have had the subject under consideration, and beg leave to make the following report:

That the paper has been distributed (so far as we have been able to discover) to the several counties and amongst the several individual applicants, according to the principles of the charter; and that the loans, in the opinion of your committee, are well secured.

Your committee have not been able to discover, that any person has directly or indirectly borrowed larger sums than are authorised by law.

*From the Senate,*

JAMES FORD,
HERMAN BOWMAR,
DAVID WHITE,
J. J. MARSHALL.

*From the House of Representatives,*

GEORGE PEARCY,
JOHN YOUNGER,
WM. LOGAN,
CHARLES H ALLEN,
JOSEPH LECOMPTE,
BEN. TAYLOR,
JAMES M'CONNELL,
JOHN BUFORD,
JOHN H. TODD,
W. O. BUTLER.

A message from the senate by mr. Ewing:

*Mr. Speaker,*

The senate concur in the resolutions which originated in this house, concerning the occupying claimant laws of this state and the opinion of the supreme court thereon.

And then he withdrew.

A message from the senate by Mr. Lackey:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act for the benefit of the heirs of William Allen, deceased; and an act for the division of Floyd county, with an amendment to the latter bill—in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Owens:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act giving further time to return plats and certificates of survey: And they have passed a bill entitled, an act authorising certain repairs and improvements to be made to the Government house and lot—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Roper:

*Mr. Speaker,*

The senate have adopted a resolution fixing on a day for the appointment of commissioners agreeably to resolutions

concerning the occupying claimant law—in which resolution they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Williams:

*Mr. Speaker,*

The senate have passed a bill entitled, an act to alter the mode of appointing trustees to the Montgomery academy—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by mr. Pope:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act imposing a duty on sales at auction in the county of Jefferson, for the benefit of the Louisville Hospital, with amendments—in which they request the concurrence of this house.

And then he withdrew.

The said amendments were then taken up, twice read and concurred in.

*Ordered,* That mr. R. C. Anderson, inform the senate thereof.

A bill to add a part of Madison county to the county of Rockcastle, was read the first time and ordered to be read a second time.

The following bills were reported from the several committees appointed to prepare and bring in the same. viz:

By mr. W. O. Butler—1. A bill for the benefit of the widow and heirs of Martin Hawkins and Henry Clifton.

And by mr. Payne—2. A bill to alter the mode of appointing trustees to the Montgomery academy.

The first was ordered to be read a second time, and the second was postponed until the first day of April next.

And the rule of the house, constitutional provision and second and third readings of the former bill being dispensed with, and the same being engrossed,

*Resolved,* That the said bill do pass and that the title thereof be as aforesaid.

*Ordered,* That mr. Butler carry the said bill to the senate and request their concurrence.

mr. Wickliffe from the select committee to whom was referred. a bill to alter the mode of summoning petit jurors, reported the same without amendment.

The said bill was again read as follows, viz:

§ 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the county court of each county

in this commonwealth, shall, at their terms preceding the term of each circuit court, in their respective counties, appoint thirty respectable and intelligent house-keepers of their respective counties, to serve as petit jurors at the next ensuing circuit court. And it shall be the duty of the sheriff of each county, to summon the said jurors, so appointed, a reasonable time previous to the sitting of the circuit court, which jurors, so summoned, shall serve as petit jurors for the term of said circuit court, unless sooner discharged; and it shall be the duty of the sheriff to return a pannel of the said jurors to the clerk of the circuit court of his county, on or before the first day of each term.

§ 2. *Be it further enacted*, That the county courts of each county, in designating the persons under the first section of this act, as petit jurors, shall cause to be put into a box to be procured for the purpose, on different pieces of paper, the names of at least one hundred discreet, intelligent housekeepers of their respective counties, from which their clerk shall draw the names of thirty, who shall be the persons directed to be summoned under the first section of this act. And the said clerk shall furnish the sheriff with a certified list of the names of the persons thus designated.

§ 3. *Be it further enacted*, The name of each juror returned by the sheriff (as prescribed in the first section of this act) shall be written by the clerk on a separate piece of paper and be put into a box to be provided and kept by him for that purpose, and when a jury shall be required for the trial of any civil action or issue directed by a court of chancery, the sheriff shall draw from the box, and call the names as drawn, a sufficient number of the whole pannel to compose a jury, saving to each party their right of challenge as heretofore.

§ 4. *Be it further enacted*, That should there at any time be a deficiency of jurors, occasioned by a failure of the county court to appoint, by challenges, or a failure of the persons summoned to attend, or from any other cause whatever, the sheriff shall summon by-standers of the qualifications heretofore prescribed by law to supply such deficiency, who, in case the deficiency shall be occasioned by the non-attendance of the jurors of the original pannel, shall be empannelled and their names put into the box and drawn, as if summoned under the first section of this act, and shall compose a part of the standing jury for the term, until discharged. And when by-standers are summoned on account of challenges made by the litigant parties, or when

the court shall make more than two juries at the same time, the same by-standers upon rendering their verdict, shall be discharged as heretofore, and others from time to time summoned, if necessary to the progress of business in court.

§ 5. *Be it further enacted*, That in case any juror summoned under the provisions of this act, shall fail or refuse to attend the court, he shall be subject to attachment and fine not exceeding eight dollars, unless for good cause shewn the court may excuse him. Nothing in this act shall be so construed as to alter the mode of summoning venire men for the trial of penal or criminal causes, or jurors for the trial of causes in the general court, or jurors to try causes before justices of the peace, or for any other purpose than those prescribed by this act.

§ 6. *Be it further enacted*, That it shall be the duty of the circuit court at all times to give priority of trial to suits triable by jury, in order that the jurors summoned under the provisions of this act, may be as speedily discharged as possible; and for that purpose the courts shall designate one or more days of the term for the purpose of hearing motions, &c. and if necessary adjourn the jurors on those days.

§ 7. *Be it further enacted*, That all laws now in force giving fees to sheriffs for summoning petit juries to serve in circuit courts, be, and the same are hereby repealed. And the said courts at each term shall certify to the Auditor of public accounts, an allowance of two dollars per day to their sheriffs for every day they shall attend the court, which shall be paid out of the public Treasury.

§ 8. *Be it further enacted*, That each juror summoned under the provisions of this act, except by-standers who shall be summoned in case of a deficit arising from challenges, shall be entitled to, and receive the sum of for each day's attendance on any court as jurors, to be paid out of the public treasury. And the clerk shall give to the jurors respectively, a certificate of the amount of their claims, and upon the production of such certificate, the Auditor shall issue his warrant for the amount upon the Treasury.

§ 9. *Be it further enacted*, That the certificates aforesaid, shall be a legal tender to the collectors of revenue in the several counties in this commonwealth, in the payment of the revenue due by the holders thereof.

§ 10. *Be it further enacted*, That hereafter there shall be paid upon all original writs and process the sum of one dollar, instead of the tax now required to be paid, to be account-

ed for at the same time and in the same manner that is now prescribed by law.

§ 11. *Be it further enacted*, That this act shall be in force from and after the day of next, and all laws coming within the purview of this act, are hereby repealed.

It was then moved and seconded to lay the said bill on the table until the first day of April next.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. M'Clanahan and Alexander, were as follows, viz:

Yeas—MR. Speaker, messrs. Allen, J. S. Anderson, Brents, Brooking, Bruce, Buford, A. Butler, Calhoun, Clark, Cockerill, Cowan, Cravens, Dejarnett, Desha, Eaves, Gordon, Green, J. G. Hardin, Herald, Howard, Inglish, Jackman, Litton, Lecompte, Lockett, Logan, Lynch, B. Mason, May, M'Cracken, Moore, Munford, Noland, Owsley, Payne, Pendleton, Pope, Shannon, Smith, Stone of Wayne, B. Taylor, Todd, Warfield, Witherspoon, Yancey and Younger—47.

Nays—messrs. Alexander, R. C. Anderson, Barnett, Bradford, Catlett, Cogswell, Cosby, Crawford, Davis, Duncan, Fletcher, Gaither, Griffith, M. Hardin, Johnson, Kincheloe, Love, J. Mason, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Mullens, O'Bannon, Patterson, Pearcy, Rudd, Sandford, Selby, Slack, Slaughter, Speed, Stone of Madison, Talbot, J. Taylor, C. H. Taylor, Thompson, White, Wickliffe, Wiley, Worthington and Yantis—44.

The house resumed the consideration of a bill from the senate entitled, an act to abolish imprisonment for debt and subject equitable interests to execution.

An amendment being moved thereto,

It was then moved and seconded to postpone the further consideration of said bill, until the first day of June next.

And the question being taken thereon it was decided in the negative.

The yeas and nays being required thereon by messrs. Moore and H. M'Elroy, were as follows, viz:

Yeas—messrs. Barnett, Eaves, Gordon, Howard, Litton, Lynch, H. M'Elroy, S. M'Elroy, Munford, Noland, Owsley, Payne, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, Warfield, Wickliffe and Younger—20.

Nays—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cosby, Cowan, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Fletcher, Gaither, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, Kincheloe, King, Lecompte, Lockett, Logan, Love, B. Mason, J. Mason, May, M'Clanahan, M'Connell, M'Millan, M'Cracken, Miller, Moore, Mullens, Murray, O'Bannon, Patterson, Pearcy, Pendleton, Pope, Sandford, Selby, Shannon, Slack, Slaughter, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, White, Wiley, Witherspoon, Yancey and Yantis—72.

It was then moved and seconded to amend said bill by attaching thereto the following section.

*Be it further enacted*, That when any creditor shall be the purchaser of real estate for a less amount than the amount of his debt, any other creditor, mortgagor or mortgagee, entitled to redeem by this act, may redeem as is before provided, unless such creditor will give credit to his debtor for an amount equal to that which such redeeming creditor is willing to give for the property.

And the question being taken on agreeing thereto, it was decided in the negative.

The yeas and nays being required thereon by messrs. Speed and Wickliffe, were as follows, viz:

Yeas—messrs. Barnett, Bradford, Cogswell, Desha, Eaves, Gordon, Kincheloe, S. M'Elroy, M'Cracken, Payne, Slack, Speed, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Thompson, Warfield, Wickliffe, Wiley and Younger—21.

Nays—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, Brents, Brooking, Bruce, Buford, A. Butler, Calhoun, Catlett, Clark, Cockerill, Cosby, Cowan, Cravens, Davis, Dejarnett, Duncan, Fletcher, Gaither, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, King, Litton, Lecompte, Logan, Love, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, M'Millan, Miller, Moore, Mullens, Munford, Murray, Owsley, O'Bannon, Patterson, Pearcy, Pendleton, Pope, Sandford, Selby, Shannon, Smith, B. Taylor, C. H. Taylor, Todd, White, Witherspoon, Yancey and Yantis—64.

It was then moved and seconded, further to amend said bill by attaching thereto the following section.

*Be it further enacted*, That nothing in this act shall be so construed, as to affect any contract made prior to the passage of this act.

And the question being taken on agreeing thereto, it was decided in the negative.

The yeas and nays being required thereon by messrs. Payne and Gordon, were as follows, viz:

Yeas—Messrs. Barnett, Bradford, Bruce, Desha, Eaves, Gordon, Green, Howard, Kincheloe, H. M'Elroy, S. M'Elroy, M'Millan, Munford, Noland, Patterson, Payne, Pearcy, Slack, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Thompson, Warfield, Wickliffe, Wiley and Younger—29.

Nays—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Brents, Brooking, Buford, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cosby, Cowan, Cravens, Crawford, Davis, Dejarnett, Duncan, Fletcher, Gaither, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, King, Litton, Lecompte, Lockett, Logan, Love, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, M'Cracken, Miller, Moore, Mullens, Murray, Owsley, O'Bannon, Pendleton, Pope, Sandford, Shannon, B. Taylor, C. H. Taylor, Todd, White, Witherspoon, Yancey and Yantis—61.

It was then moved and seconded further to amend said bill by striking out the whole thereof after the enacting clause and to insert in lieu thereof the following:

That all laws which authorise a plaintiff or plaintiffs at his or their will and pleasure, to have issued a *capias ad satisfaciendum* against the body of his, her or their debtor, be, and the same are hereby repealed; and hereafter a *capias ad satisfaciendum* shall not be issued in any case, except upon the terms and conditions, and in the cases hereinafter mentioned and provided for.

§ 2. Whenever it shall appear by the return of the proper officer upon a *fieri facias*, that the same is unsatisfied, and that he has not been able to find property sufficient to satisfy the same; then, and in that case, the plaintiff or plaintiffs in such execution, or the person or persons entitled to the benefit of the same, his, her or their agent or attorney, upon filing an affidavit in writing in the clerk's office, from which such *ficri facias* issued, stating that he has good cause to believe, and does believe, that the defendant or defendants, has or have money, with which he or they might discharge the whole or a part of said execution, or

that he or they, have fraudulently secreted, conveyed away or transferred, his or their property, with intent to elude and evade the payment of his or their debt, may direct a *capias ad satisfaciendum* to be issued against such defendant or defendants: and the sheriff or other officer to whom the same is directed, shall proceed to execute the same, and deliver such defendant or defendants to the jailer of the county in which such defendant or defendants may be found; unless such defendant or defendants pay the debt, damages, interest and costs expressed in such execution, replevy the same, (if repleviable,) or enter into bond with good and sufficient security, payable to the plaintiff or plaintiffs in execution, conditioned, that he or they will appear on the first day of the next term of the court, by which the judgment, order or decree, upon which such execution issued was rendered, and abide and perform any order, judgment or decree, the court may make in the premises; and that he or they, will not depart without the leave of the court: which bond shall be considered in the nature of, and have the force and effect of a recognizance of special bail. And if said defendant or defendants, shall fail to enter his or their appearance, on the first day of said term, or fail to perform any other of the conditions of said bond or recognizance, it shall be the duty of the clerk, in whose office said bond shall be filed, upon the application of the person or persons entitled to the benefit of said execution and bond, his, her or their agent or attorney, to issue a *scire facias* on said bond, in the name of the obligee or obligees of said bond, his, her or their executors or administrators, against the obligors, in said bond or recognizance; and upon the return of said *scire facias* executed, or the return of two *nihils*, the said court may render judgment in favor of the plaintiff or plaintiffs, in such *scire facias*, for the aggregate amount of principal, interest and costs, expressed in the execution, by virtue of which the original defendant or defendants was arrested, with six per centum interest per annum, to be calculated thereon from the return day of such execution, and the costs; unless the security or securities in said bond, shall have surrendered their principal or principals, on or before the return day of the first *scire facias*, returned executed, or the second returned *nihil*; but in either case the defendants shall pay the costs of the *scire facias*, and judgment for the same shall be entered accordingly.

§ 3. Upon the plaintiff or plaintiffs, in any judgment or decree, or the obligee or obligees, in any replevin bond, forth-coming bond, or other bond having the force and effect of a judgment, or any other person entitled to the benefit of such judgment, decree or bond, his, her or their agent or attorney, filing with the clerk of the court in which such judgment or decree was entered, or who has legally the custody of any such bond, stating that he, she or they, have good cause to believe, and does believe, that the defendant or defendants, in such judgment or decree, or the obligor or obligors, in such bond, is, or are about to move out of the state, and that he or they have money in his or their possession, or within his or their control, with which the whole or a part of said judgment, decree or bond, might be discharged, or that he or they have fraudulently secreted, conveyed away or transferred, his or their property, with intent to elude and evade the payment of his or their debts; or that such defendant or defendants, will remove his or their property out of the state, and in the mean time so secrete the same, that an execution of *fieri facias* cannot be levied thereon, it shall be the duty of the clerk to issue a writ of *capias ad satisfaciendum* in the first instance on such judgment, decree or bond, although no *fieri facias* shall have issued thereon; and the officer to whom the same shall be directed, shall proceed to execute the same in the same manner, the like writs of execution are directed to be executed by the second section of this act, and all proceedings consequent thereon, and subsequent thereto, shall be as directed and provided for in said second section.

§ 4. Where an affidavit is filed as before required, a *capias ad satisfaciendum* shall only issue against such defendant or defendants, as are charged with fraud in said affidavit, or with an intention to move out of the state.

§ 5. It shall be the duty of the officer who shall take the bond or recognizance before mentioned, to return the same with the execution, by virtue and authority of which, said bond or recognizance shall be taken, as soon as practicable, to the clerk's office from which said execution issued, and shall endorse on said execution, the time and manner the same had been executed; and upon said bond or recognizance and execution being returned to the clerk, he shall docket the said case for trial at the first term immediately after the pleas of the commonwealth; and upon the calling of said case, the plaintiff or plaintiffs, shall file a specification in writing, of the particular acts of fraud of the de-

fendant or defendants, on which he or they mean to rely, on the trial of the case, to which the defendant or defendants as soon as may be, shall file a response in writing; which being done, the pleadings shall be considered closed, and an issue formed for a trial of the cause on its merits; but the court may, nevertheless, require further pleadings, whenever they shall deem it necessary, for the purposes of justice: *Provided, however*, The court may, for good cause shewn, allow either party a farther day in that, or the next succeeding term, to file the specification or response, required by this act, or to file any other pleadings the court may, in their discretion, require: such party paying the costs occasioned by the delay; and all questions of law or equity presented by the pleadings, or which occur in the trial of the case, shall be decided by the court, and all questions of fact by the jury as in other cases.

§ 6. If upon the trial herein before directed to be had, it shall appear that the defendant or defendants has, or have made any disposition of his or their money or property, real, personal or mixed, by secreting, conveying away or transferring the same, with intent to delay, hinder or defraud, all or any of his or their creditors, or incumbered his or their property, in any way which is deemed by the law fraudulent in relation to creditors, such defendant or defendants, shall, by the judgment of the court, or the verdict of a jury, where the jury shall intervene, and the judgment of the court thereon, be sentenced to close confinement in the jail of the county in which the trial may be had, for any time not less than days, nor more than days, at the discretion of the court or jury, as the one or the other shall decide the cause, or until the debt, damages, interest and costs, are paid. If, however, upon the trial, the verdict of the jury or the judgment or decree of the court, be for the defendant or defendants, he or they shall be forthwith discharged from his or their recognizance, or from custody; and judgment shall be entered in his or their favor, against the plaintiff or plaintiffs, for his or their legal costs; and the person or persons, thus acquitted and discharged, shall be forever free from arrest, upon the allegations of fraud, contained in the specification filed by the plaintiff or plaintiffs: *Provided, however*, That the court may grant, to either party, new trials, under the same rules and restrictions, as in other civil causes.

§ 7. That if any defendant or defendants, who may hereafter be arrested upon any writ of *capias ad respondendum*,

*ac exeat*, or any other original or mesne process, either at law or in chancery, requiring bail, may, upon giving reasonable notice to the plaintiff, his agent or attorney, if such be in the county, and if not, upon filing notice in like manner, in the clerk's office from which such process issued, apply to any two justices of the peace of the county in which the arrest was made, and upon rendering a schedule of his or their property, and taking the oath prescribed to insolvent debtors, shall be discharged by the officer in whose custody he may be; and the justices to whom such schedule shall be rendered, and before whom the oath of insolvency may be taken, shall issue an order under their hands, directed to the officer having the custody of such defendant or defendants, requiring his or their discharge.

§ 8. The provisions of this act in relation to issuing of writs of *capias ad satisfaciendum* in the cases before mentioned, shall govern all justices of the peace in issuing the like writs on their judgments or on bonds filed in their offices, having the force and effect of judgments; and whenever any constable or other officer, shall, by virtue of any execution issued by a justice of the peace, arrest any defendant or defendants therein, he shall deliver him or them to the jailer of his county, unless such defendant or defendants pay the debt, interest and costs expressed in such execution, replevy the same, (if repleviable,) or enter into bond with good and sufficient security, payable to the plaintiff or plaintiffs in such writ of execution, conditioned, that he or they will appear on the first day of the next term of the circuit court of the county in which the justice resided at the time such execution issued, and abide and perform any judgment, decree or order, the court may make in the premises, and that he or they will not depart without the leave of the court; which bond shall have the like force and effect, as the bond or recognizance mentioned in the second section of this act, and the like proceedings may be had thereon; and the trial, judgment and punishment of the fraud charged, in such case, shall be the same as provided for in said second section, in relation to the cases therein mentioned.

§ 9. That from and after the time this act shall take effect and be in force, any person or persons who shall have been committed to close jail, or to the prison bounds, by virtue of any original or mesne process, requiring bail, or by virtue of any writ of *capias ad satisfaciendum*, may, upon giving reasonable notice of such application, to the person or persons at whose suit he or they may have been com-

mitted, or to his, her or their agent or attorney in fact or at law, if any such be in the county, and if not, upon filing a reasonable notice in the office of the clerk of the court from which such process issued, apply to any two justices of the peace, for his discharge, and upon such justices being satisfied that notice has been given, as before required, and that the person or persons making such application, is or are confined, upon, and by the authority of civil process, the said justices shall issue an order to the jailer having the custody of such person or persons, to discharge and release him or them from confinement, unless the plaintiff or plaintiffs at whose suit such person or persons may have been arrested and confined, his or their agent or attorney at law, shall file with the clerk of the court from which such process issued, such an affidavit as is required by the provisions of this act to authorise the issuing of a *capias ad satisfaciendum*, in which case it shall be the duty of such justices to recognize the person or persons so in custody, with good and sufficient security, in such bond or recognizance, as required to be executed by persons arrested by virtue of writs of *capias ad satisfaciendum*, and they shall, as soon as may be, return the said bond or recognizance to the clerk's office of the court from whence the process, by virtue of which the defendant or defendants were confined, issued; upon which, the same proceedings shall be had, as are prescribed by this act in like cases; and upon such person or persons being discharged under the provisions of this section, and if no such affidavit being filed as before required, the plaintiff or plaintiffs, or the person or persons entitled to the benefit of suit or the judgment, in the prosecution or execution of which, the defendant or defendants so discharged may have been in custody, may have a new execution against the property of such person or persons, without suing out a *scire facias* to revive his, her or their judgment.

§ 10. *Be it further enacted*, That whenever an execution of *fieri facias*, founded upon a judgment or decree, or upon any bond having the force of a judgment, shall issue to the proper officer, and be returned as to the whole or any part thereof, in substance, that the defendant hath no effects in his bailiwick to satisfy the same, the proper court or courts of chancery, shall have jurisdiction on bill filed, to subject to the satisfaction of such judgment, decree or bond, any choses in action belonging to the debtor, and also any equitable or legal interest, in any estate, real personal or mixed, which the debtor may be entitled to, and to that end

may bring other parties before the court, and make such decree as may be equitable under the jurisdiction hereby conferred: *Provided*, that nothing in this act contained, shall be construed to extend to those articles in possession of a defendant which are exempted by law, from execution.

§ 11. This act shall take effect and be in force from and after the first of next.

And the question being taken on agreeing thereto, it was decided in the negative.

The yeas and nays being required thereon by messrs. Cosby and Murray, were as follows, viz:

Yeas—messrs. Barnett, Bruce, Cosby, Desha, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Inglish, Kincheloe, Lockett, Lynch, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Murray, Noland, Patterson, Payne, Pope, Selby, Slack, Smith, Stone of Madison, Stone of Wayne, J. Taylor, C. H. Taylor, Warfield, Wiley and Yancey—35.

Nays—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Buford, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Duncan, Gaither, M. Hardin, Jackman, Johnson, King, Litton, Lecompte, Logan, Love, B. Mason, J. Mason, May, M'Clanahan, M'Connell, Miller, Moore, Mullens, Munford, Owsley, O'Bannon, Pearcy, Pendleton, Sandford, Shannon, Speed, Talbot, B. Taylor, Thompson, Todd, White, Witherspoon, Yantis and Younger—55.

The said bill being further amended, the question was taken on reading said bill as amended a third time, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Clark and Shannon, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cowan, Cravens, Crawford, Davis, Dejarnett, Duncan, Fletcher, Gaither, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, Kincheloe, King, Lecompte, Lockett, Logan, Love, B. Mason, J. Mason, May, M'Clanahan, M'Connell, M'Millan, M'Cracken, Moore, Mullens, Murray, Owsley, O'Bannon, Patterson, Pendleton, Pope, Sandford, Shannon, Slack, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, White, Witherspoon, Yancey and Yantis—61.

Nays—messrs. Barnett, Cosby, Desha, Eaves, Gordon, Green, Howard, Litton, Lynch. H. M'Elroy, S. M'Elroy, Miller, Munford, Noland, Payne, Pearcy, Selby, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, Warfield, Wickliffe, Wiley and Younger—26.

A message from the governor by mr Anderson :

*Mr. Speaker,*

I am directed by the governor to inform this house, that he did on this day approve and sign enrolled bills which originated in this house of the following titles :

An act for the benefit of the widow and heirs of John Anderson, dec.

An act to amend the law allowing compensation to venire men and witnesses.

An act to appoint additional justices of the peace in the counties of Mason and Rockcastle.

An act for the benefit of Polly Martin.

An act for the benefit of Joel Morrison.

An act to alter the place of holding elections in the Eagle precinct in the county of Gallatin, and the Walnut Grove precinct in Mercer county.

An act for the relief of the sheriff of Shelby county.

An act for the benefit of Richard Clark and Samuel Cursewell.

An act for the benefit of the heirs of James M'Knight.

An act to legalize the proceedings of the Nelson county court, at their November term, 1821.

An act to regulate the Bath seminary in Bath county.

And I am directed by the governor to lay before this house a message in writing.

And then he withdrew.

A bill from the senate entitled, an act providing for the sale of the vacant lands west of the Tennessee river, was then taken up.

It was then moved and seconded, to amend said bill by attaching thereto the following section, viz :

Whereas many persons have heretofore settled upon the lands west of the Tennessee river, and made small improvements under a hope that their government would devise some mode by which they could purchase their lands and save their homes for their families.

*Be it therefore enacted*, That it shall and may be lawful for all those who are actual settlers upon any of the sections by this act directed to be sold, to give notice in writing on or before the 1st June, 18 2, to the Register of the land of-

tice of the No. of township, and range. and section, and what quarter section, that they were settled upon at the passage of this law, and shall moreover prove by the affidavit of some disinterested person, to accompany said notice to the Register, that he, she or they, were actual occupants, living upon the land at the passage of this act; then and in that case, he, she or they, shall have a pre-emptive right to buy one quarter section, including their own homes, according to the provisions of this act. The Register shall not expose to sale the quarter sections upon which the person or persons may notify and prove to him, he actually occupied at the passage of this act, until the day of sale; but he shall before said day, sell or offer for sale, sections in those townships upon which said settler or settlers may reside.

*Be it further enacted*, That upon the said day of the sale as aforesaid, the Register shall ascertain what was the average price for which the land sold per acre, in any township in which any settler may reside; and such settler shall then have the right to pay the average price per acre, for one quarter section; and the Register shall give to him a certificate as in other cases, upon the payment of the money.

*Be it further enacted*, That if no sales for want of bidders shall be made as aforesaid, of any sections upon a township wherein any occupant may reside, then, and in that case, all such occupant or occupants, shall have the right to purchase the said land at the minimum price fixed by this act for the lands in said township.

*Be it further enacted*, If the actual settlers do not avail themselves of the provisions of the above section, by the times therein stipulated, then, and in that case, the Register shall proceed to sell the said land as though the same had not been seated and improved: *Provided*, That no settler shall have a right to divide any quarter section.

And the question being taken on agreeing thereto, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Cravens and Wickliffe, were as follows, viz:

Yeas—Mr. Speaker, Messrs. Alexander, J. S. Anderson, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, Calhoun, Catlett, Clark, Cockerill, Cogswell, Cosby, Cravens, Crawford, Desha, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M Hardin, Herald, Inglish, Kincheloe, King, Litton, Lecompte, Lockett, Lo-

gan, Lynch, B. Mason, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Mullens, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Pope, Shannon, Slack, Slaughter, Smith, Stone of Wayne, J. Taylor, C. H. Taylor, Thompson, Warfield, White, Wickliffe, Wiley, Yancey, Yantis and Younger—69.

Nays—Messrs. Allen, Barnett, Dejarnett, Howard, J. Mason, Rudd, Selby, Speed, Stone of Madison, Talbot and B. Taylor—11.

The said bill as amended was ordered to be read a third time to-morrow.

And then the house adjourned.

## SATURDAY, DECEMBER 15, 1821.

Mr. Clark presented the petition of Rebecca Thompson, praying a divorce from her husband, Alexander K. Thompson.

Which was read and referred to a select committee of messrs. Clark, Bruce, Jackman, Inglish and Cockerill, giving said committee leave to report thereon by bill or otherwise.

Mr. Cockerill presented the petition of sundry citizens of the counties of Warren and Allen, praying for leave to build a dam and erect a fish trap on Big Barren river at the Little Island, across one arm of the river.

Which was received and read, and the question being taken on referring it to the proper committee, it was decided in the negative, and so the said petition was rejected.

Mr. Brents from the joint committee appointed to examine the Auditor's office, made the following report, to wit:

The joint committee of the senate and house of representatives, appointed to examine the auditor's office, have performed that duty. They have with great care and labor examined all the evidence and vouchers in support of each charge against the state, in the year ending the 10th day of October 1821, and find all the charges properly supported by legal vouchers and evidence. They also find that the receipts correspond with the books of the treasury. They compared the general account, as stated in the auditor's

books, with his report made to the legislature on the third day of the present session; and they find a perfect correspondence between the books and said report. They therefore deem it unnecessary to accompany this report with a detailed statement of the particular items and charges, as it would be but a repetition of the auditor's report.

Your committee think it due to that department, to state, that the whole of the business has been done with great accuracy, neatness, and in an excellent manner.

They have also examined the expenditures made by the governor, on the government house and lot, by virtue of an act providing for the repairing and furnishing the government house, and for other purposes, approved November the 9th, 1820, and find that many valuable improvements have been made, of good and lasting materials, in conformity to said recited act; and for that purpose the governor drew from the treasury the sum allowed by said act; that he has expended, in the improvements aforesaid, the sum of $1801 55, leaving a balance in his hands of $198 45 cents. They also find that he has commenced a brick wall in front of the government house, which is not finished, nor is any part of it paid for; the brick-work of which will, when finished, cost about $387, which is $188 more than was appropriated by the before recited act. They further find that he contemplates capping said wall with suitable stone from the penitentiary, and complete the same by cast iron railing; which, if done, would make it durable and permanent, and well become the place; the cost of which, your committee are advised, would be about $500. They also find there are yet some repairs necessary to be done to the kitchen belonging to the government house, which will cost about the sum of $100. All of which repairs, your committee are of opinion, ought to be done, and that an appropriation ought to be made; and for that purpose they beg leave to introduce a bill.

*From the Senate.*

WILLIAM OWENS,
ANAK DAWSON,
THOs THROCKMORTON,
THOMSON WARD,
JOHN L. HICKMAN.

*From the House of Representatives,*

SAMUEL BRENTS,
S. BARNETT,
RICHARD I. MUNFORD,
WILLIAM GORDON,
JAMES M. COGSWELL,
LIBERTY GREEN,
J. R. WITHERSPOON,
BEN. DESHA.
T. H. BRADFORD.

Mr. Brents from the same committee, reported a bill requiring the Auditor of public accounts to transcribe certain books and papers.

Which was received and read the first time and ordered to be read a second time.

The following reports from joint committees raised to examine the reports of the President and Directors of the different branch banks of the Bank of the Commonwealth of Kentucky, were severally received and read:

The joint committee appointed to examine the report of the branch of the Bank of the Commonwealth at Harrodsburg, in the 9th district, composed of the counties of Mercer, Washington, Casey, Garrard and Jessamine, report:

That they have carefully examined the list of debtors to said institution, and find that the proper number of securities have uniformly been required, and that the loans have been generally extended to every quarter of the district, and are well secured, as your committee have not been able to point out any one which is not so.

It appears that said district has received its due proportion of money, so far as it was received, from the principal bank; and that the said branch went into operation at as early a day as possible, after the money was received. This, your committee are proud to say, resulted from the extraordinary zeal and industry of the president and officers of said branch.

The president and directors, we believe, have faithfully attended to the interests of said bank and the great objects which the legislature had in view. None of them have received on loan a greater amount than was allowed; neither has any individual been permitted to transcend his limits, as far as we have been able to ascertain. Very few received the whole amount, and in the general, the loans were no greater than the absolute necessities of the borrower demanded—many of them not exceeding twenty-five dollars.

Your committee cannot close this report, without remarking, that the report made by the officers of said branch, exhibits an attention to the duties of their respective stations, highly creditable to themselves and the institution.

*From the Senate,*

ROBT. B. M'AFEE, *Ch'n.*
HERMAN BOWMAR,
JEROBOAM BEAUCHAMP,
JOHN FAULKNER.

*From the House of Representatives,*

T. P. MOORE,
JOHN YANTIS,
D. G. COWAN,
D. C. COSBY,
JAMES CLARK,
JOHN POPE,
JOHN JACKMAN,
SAMUEL E. M'ELROY,
BENJ. MASON.

The committee composed of the senators and members of the house of representatives from the counties forming the first judicial district, in which the Flemingsburg Branch Bank of the Commonwealth of Kentucky is located, have had under consideration the manner in which said branch bank has been conducted, and make the following report, to wit:

Said bank has received its due proportion of the notes issued by the principal bank; that the several counties in said district have received their proper portions of said notes, according to the provisions of the charter; and that the loans have been made in pursuance of the spirit and policy of the charter, and are well secured.

*From the Senate,*

*WILLIAM P. ROPER.*
*JOHN PICKETT,*

*From the House of Representatives,*

*JAMES CRAWFORD,*
*JOHN TAYLOR,*
*BEN. DESHA,*
*J. A. SLACK,*
*JOHN H. RUDD,*
*HORATIO BRUCE.*

Mr. Eaves presented the petition of the heirs and representatives of Samuel Watkins, dec. praying that a law may pass authorising the sale of the interest of Frances R. Wat-

kins, infant heir of said decedant, in & to certain lands owned jointly by the said infant heir and the adult heirs of said decedant.

Which petition was received, read and referred to a select committee of messrs. Eaves, Calhoun, Wickliffe, Inglish and Bruce, giving said committee leave to report thereon by bill or otherwise.

Mr. Cogswell from the select committee to whom was referred, a bill to amend the charter of the Bank of the Commonwealth of Kentucky, reported the same with amendments.

Which being twice read the first was disagreed to, and the second and third concurred in, and the said bill as amended ordered to be read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed.

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. King carry the said bill to the senate and request their concurrence.

The following bills were reported from committees appointed to prepare and bring in the same, viz:

By mr. Clark—1. A bill for the divorce of Rebecca Thompson.

By mr. Bruce—2. A bill to declare Cabbin Creek a navigable stream.

And by mr. Sandford—3. A bill for the benefit of Mary Prewitt, administratrix of Anderson L. Prewitt, deceased.

Which bills were severally received and read the first time, and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the second and third bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That mr. Bruce carry the second, and mr. Sandford the third bill to the senate and request their concurrence.

A bill from the senate entitled, an act to abolish imprisonment for debt and subject equitable interests to execution, was read a third time as amended.

The question was then put on the passage of said bill as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Warfield and Clark, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Brents, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Catlett, Clark, Cockerill, Cogswell, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Duncan, Fletcher, Gaither, M. Hardin, Jackman, Johnson, King, Lecompte, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, Moore, Mullens, Murray, Owsley, O'Bannon, Pendleton, Pope, Rudd, Sandford, Shannon, Slaughter, B. Taylor, C. H. Taylor, Thompson, Todd, White, Witherspoon and Yantis—57.

Nays—messrs. Barnett, Cosby, Desha, Eaves, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Inglish, Kincheloe, Litton, Lockett, H. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Noland, Patterson, Payne, Pearcy, Selby, Slack, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Warfield, Wickliffe, Wiley, Yancey and Younger—36.

*Ordered*, That mr. Moore inform the senate thereof and request their concurrence in said amendments.

A message from the senate by mr. Roper:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house to a bill from the senate entitled, an act to abolish imprisonment for debt and subject equitable interests to execution.

And then he withdrew.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act for the establishment of a Literary fund and for other purposes, with amendments—in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by mr. Jones:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act for the divorce of sundry persons, with amendments—in which they request the concurrence of this house.

And then he withdrew.

The amendments proposed by the senate upon concurring in those proposed by this house to a bill from the senate en-

titled, an act to amend the militia law, were taken up, twice read and concurred in.

*Ordered*, That mr. Wickliffe inform the senate thereof.

A message from the senate by Mr. Faulkner:

*Mr. Speaker*,

The senate disagree to a bill which originated in this house entitled, an act for disposing of the lands east of the Tennessee river and south of Walker's line, and north of latitude 36° 30'. And they have passed bills which originated in this house of the following titles: An act concerning Jeffersontown in Jefferson county: an act for the benefit of Henry S. Langford, infant heir of Stephen Langford, dec.; an act for the benefit of the seminary in Harlan county; and an act authorising the trustees of the Union academy to sell certain lands.

And then he withdrew.

A bill from the senate entitled, an act providing for the sale of the vacant lands west of the Tennessee river, was read a third time as amended.

It was them moved and seconded to commit said bill to a select committee for the purpose of amendment.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Slaughter and Alexander, were as follows, viz:

Yeas—Messrs. Alexander, Allen, Barnett, Bradford, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Davis, Dejarnett, Fletcher, Gaither, M. Hardin, Howard, Jackman, Lecompte, Lockett, Love, B. Mason, J. Mason, May, M'Clanahan, S. M'Elroy, M'Millan, Noland, Payne, Pope, Rudd, Selby, Slack, Slaughter, Smith, Speed, Stone of Madison, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Todd, White, Worthington, Yantis and Younger—45.

Nays—messrs. J. S. Anderson, R. C. Anderson, Brents, Brooking, Bruce, A. Butler, W. O. Butler, Calhoun, Cockerill, Cravens, Crawford, Desha, Duncan, Eaves, Gordon, Green, Griffith, J. G. Hardin, Herald, Inglish, Johnson, Kincheloe, King, Litton, Logan, Lynch, M'Connell, H. M'Elroy, M'Cracken, Miller, Moore, Mullens, Munford, Murray, Owsley, O'Bannon, Patterson, Pearcy, Pendleton, Sandford, Shannon, Stone of Wayne, Thompson, Warfield, Wickliffe, Wiley, Witherspoon and Yancey—48.

The vote by which the amendment was adopted on yesterday being reconsidered, and the said amendment being amended to read as follows:

Whereas many persons have heretofore settled upon the lands west of the Tennessee river, and made small improvements under a hope that their government would devise some mode by which they could purchase their lands and save their homes for their families.

*Be it therefore enacted*, That it shall and may be lawful for all those who are actual settlers upon any of the sections by this act directed to be sold, to give notice in writing on or before the 1st of June, 1822, to the Register of the land office of the No. of township, and range, and section, and what quarter section, that they were settled upon at the passage of this law, and shall moreover prove by the affidavit of some disinterested person, to accompany said notice to the Register, that he, she or they, were actual occupants, living upon the land at the passage of this act; then and in that case, he, she or they, shall have a pre-emption right to buy one quarter section, including their own homes, according to the provisions of this act. The Register shall not expose to sale the quarter sections upon which the person or persons may notify and prove to him, he actually occupied at the passage of this act, until the day of the sale; but he shall before said day, sell or offer for sale, sections in those townships upon which said settler or settlers may reside.

*Be it further enacted*, That upon the said day of the sale as aforesaid, the Register shall ascertain what was the average price for which the land sold per acre, in any township in which any settler may reside; and such settler shall then have the right to pay the average price per acre, for one quarter section; and the Register shall give to him a certificate as in other cases, upon the payment of the money.

*Be it further enacted*, That if no sale for want of bidders shall be made as aforesaid, of any sections upon a township wherein any occupant may reside, then, and in that case, all such occupant or occupants, shall have the right to purchase the said land at the minimum price fixed by this act for the lands in said township.

*Be it further enacted*, If the actual settlers do not avail themselves of the provisions of the above section, by the times therein stipulated, then, and in that case, the Register shall proceed to sell the said land as though the same had not been seated and improved: *Provided*, That no settler shall have a right to divide any quarter section.

*Be it further enacted*, That the occupant who wishes to avail himself of the provisions of this act, shall also file

with the Register by the day aforesaid, his affidavit in writing, stating therein that he did not settle upon the land aforesaid with a view of acquiring the benefit of said occupancy for another; but that he makes the application in his own right, for his own benefit, and not with a view to acquire the land for the benefit of another. And no occupant hereafter settling upon the public lands west of the Tennessee river, shall be entitled to any pre emption right to purchase the said land.

It was then moved and seconded to substitute the following in lieu of the said amendment, viz:

Whereas many persons have heretofore settled upon the lands west of the Tennessee river and made improvements under a hope, that some liberal provision would be made for them by their government:

*Be it further enacted*, That all those who are actual settlers upon any of the sections by this act directed to be sold, shall be entitled to a reasonable compensation for the improvements they have made thereon, or to hold and enjoy the same for the term of five years from the passage of this act, free from any charge for rent, at the election of the purchasers.

*Be it further enacted*, That if any purchaser under this act, shall elect to pay the settler for his improvements, he may, upon giving to such settler ten days' previous notice, apply to the circuit court of the county in which the land may be situate, to appoint commissioners to value said improvements, and upon such application it shall be the duty of said court to appoint three commissioners to value the same, who, or a majority of them, shall value the same and make report to said court; upon which, such court shall render judgment against the purchaser for the value assessed, subject to all such exceptions and provisions as are usual in like cases.

*Be it further enacted*, That the settler shall have a lien on the land to secure payment of the value of his improvements.

And the question being taken on agreeing to the proposed amendment in lieu of the amendment aforesaid, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Wickliffe and Pope, were as follows, viz:

Yeas—messrs. Alexander, Allen, Barnett, Bradford, Catlett, Clark, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Fletcher, Gaither, Green, Griffith, M.

Hardin, Howard, Inglish, Kincheloe, Litton, Lecompte, Lockett, Love, B. Mason, J. Mason, May, M'Clanahan, S. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Noland, Payne, Pearcy, Pope, Rudd, Sandford, Selby, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, White, Wiley, Witherspoon, Worthington and Yancey—59.

Nays—MR. Speaker, messrs. J. S. Anderson, R. C. Anderson, Brents, Brooking, Bruce, A. Butler, Calhoun, Cockerill, Cogswell, Cosby, Cowan, Eaves, Gordon, J. G. Hardin, Herald, King, Logan, Lynch, H. M'Elroy, Mullens, Munford, Owsley, Pendleton, Warfield, Wickliffe, and Yantis—27.

It was then moved and seconded, further to amend said bill by attaching thereto the following as an additional section, viz:

The Register of the land office shall leave with the clerk of the branch bank at Princeton, a copy of his list of sales of the land hereby authorised to be sold, and also one of Henderson's maps of the land west of the Tennessee river, upon which he shall designate by paint or some suitable mark, the sections and quarter sections by him sold; and thereafter any person wishing to appropriate any portion of the land which may have been striken off to the state, may apply to the clerk of said bank for an inspection of the said list of sales and map, and having selected the quarter section or quarter sections he may wish to enter, shall receive from the clerk a certificate, describing particularly the number of the section, the township and range thus selected for entry, and that the land therein described is liable to be appropriated, and the name of the person applying for the same; which certificate the person in whose name it shall be issued, may produce to the cashier of said branch bank, and on paying to the said cashier one dollar and twenty five cents per acre, for the quantity of land he desires to enter, the cashier shall pass his receipt to the person paying the same, expressing therein the amount paid and the description of quarter section, township and range, for which payment is thus made. The purchaser shall then present the cashier's receipt to the clerk, who shall thereupon make an entry in a book to be by him kept for that purpose, of the land so paid for and entered; and shall make out and deliver to the person entitled thereto, a certificate of the entry and payment, with the proper description of the land so en-

tered; which certificate shall entitle the person in whose favor it is issued, his or her assignee, to a patent for the land therein described.

And the question being taken on agreeing thereto it was decided in the negative.

The yeas and nays being required thereon by messrs. Speed and J. S. Anderson, were as follows, viz:

Yeas—Messrs. Speed and White—2.

Nays—Messrs. Alexander, Allen, J. S. Anderson, Barnett, Bradford, Brents, Bruce, Catlett, Clark, Cockerill, Cogswell, Crosby, Cowan, Craig, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Love, Lynch, B. Mason, J. Mason, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Mullens, Munford, Murray, Noland, Owsley, O'Bannon, Payne, Pearcy, Pendleton, Pope, Rudd, Sandford, Selby, Shannon, Slack, Slaughter, Smith, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, Warfield, Wickliffe, Wiley, Witherspoon, Worthington, Yancey and Yantis—81.

The said bill was then ordered to be read a third time as amended.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with,

*Resolved*, That the said bill as amended do pass, and that the title thereof be as aforesaid.

*Ordered*, That Mr. Pope inform the senate thereof and request their concurrence in the said amendment.

The house took up a resolution from the senate, fixing on a day for the appointment of commissioners agreeably to the resolutions concerning the occupying claimant laws, which being twice read,

The house then adjourned.

## MONDAY, DECEMBER 17, 1821.

Mr. Mullens presented the petition of sundry citizens of Pendleton, praying that a law may pass to exempt the citizens of said county from the payment of toll on the turnpike road leading from Georgetown to Cincinnati.

Which petition was received, read and referred to a select committee of messrs. Mullens, Alexander, Warfield, Cock-

grill and M'Millan, giving said committee leave to report thereon by bill or otherwise.

A bill authorising the citizens of Trigg county to fix on a place for the permanent seat of justice for said county, was read the first time and ordered to be read a second time.

Mr. A. Butler presented the memorial of Obadiah Chism of Simpson county, representing that he purchased from this state a tract of land and that it is doubtful whether the same lies in this state or the state of Tennessee, the line having never been run or marked; that a warrant derived from the state of North Carolina has been located on his land, and that many other persons situated near the line labor under the same difficulties, and praying that legislative provision may be made for running and marking said line.

Which petition was received, read and referred to the committee for courts of justice.

Leave was given to bring in the following bills:

On the motion of MR. Cosby—1. A bill for the benefit of the heirs of Elisha Dewitt, deceased.

And on the motion of MR. Cogswell—2. A bill to amend an act passed the sixth of February, 1816, for the benefit of Betsey Irvine.

Messrs. Cosby, Pope, H. M'Elroy, Wickliffe and Cogswell, were appointed a committee to prepare and bring in the first; and messrs. Cogswell, Talbot, Warfield and Hughes the second.

Mr. Murray from the select committee to whom was referred, a bill providing a mode for this state receiving the net profits at the Commonwealth's Bank, reported the same with an amendment, which being twice read was concurred in, and the same was ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed.

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That MR. Murray carry the said bill to the senate and request their concurrence.

A bill providing for a change of venue in the case of Elisha English, was read a second time and ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Allen carry the said bill to the senate and request their concurrence.

MR. Crawford from the joint committee of enrolments, reported that the committee had examined enrolled bills and a resolution of the following titles: An act to amend the militia law; an act to abolish imprisonment for debt and subject equitable interests to execution; an act giving further time to return plats and certificates of survey; an act for the benefit of the heirs of William Allen, deceased; an act imposing a duty on sales at auction in the county of Jefferson for the benefit of the Louisville Hospital; and resolutions concerning the occupying claimant laws and the decision of the supreme court of the United States thereon.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Crawford inform the senate thereof.

A message from the senate by Mr. Bowmar:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act to amend and repeal in part an act entitled, an act for establishing and laying off a town at the Iron Banks, approved December 27, 1820, with amendments. And they have passed bills of the following titles: An act to amend and repeal in part an act entitled, an act to amend and extend the charter of the Bank of Kentucky; & an act to amend an act entitled, an act for the better regulation of the town of Falmouth, approved February 5th, 1817—in which amendments and bills they request the concurrence of this house.

And then he withdrew.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By MR. Cosby—1. A bill for the benefit of the heirs of Elisha Dewitt, deceased.

By MR. Howard—2. A bill for the appropriation of money.

And by MR. Pope—3. A bill to regulate proceedings on contracts for specie.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second reading of the second and third bills being dispensed with, the second was committed to a commit.

tee of the whole house on the state of the commonwealth for to morrow; and the third was ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of said bill being dispensed with, and the same being engrossed,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Pope carry the said bill to the senate and request their concurrence.

The yeas and nays being required on the passage of the third bill by messrs. Talbot and Pope, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Bruce, A. Butler, W. O. Butler, Catlett, Clark, Cockerill, Cosby, Cowan, Craig, Crawford, Davis, Dejarnett, Desha, Duncan, Eaves, Fletcher, Griffith, J. G. Hardin, M. Hardin, Howard, Kincheloe, King, Litton, Lockett, Logan, Love, Luckett, Lynch, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, Moore, Murray, Noland, Owsley, Payne, Pearcy, Pendleton, Pope, Shannon, Slack, Smith, Speed, Stone of Madison, Stone of Wayne, J. Taylor, C. H. Taylor, Todd, Warfield, White, Wiley, Witherspoon, Yancey, Yantis and Younger—63.

Nays—messrs. Allen, Gaither, Gordon, Green, Inglish, Jackman, Lecompte, J. Mason, May, M'Cracken, Miller, Mullens, Munford, Rudd, Selby, Slaughter, Talbot, B. Taylor and Wickliffe—19.

A message from the senate by mr. Crutcher:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act to amend an act concerning a house of public worship in the town of Frankfort.

And then he withdrew.

A message from the senate by mr. Ewing:

*Mr. Speaker*,

The senate have passed bills which originated in this house of the following titles: An act authorising the sale of the real estate and slaves of certain persons; an act for the benefit of the heirs of William Shannon and James Bristoe; an act for the relief of Andrew Craig; an act for the benefit of the clerk of the Nicholas circuit court, and for other purposes; an act for the benefit of Champ Mullens of Rockcastle county; an act for the benefit of the wi-

dow and heirs of John Willett, dec.; and an act for the better regulation of the towns of Carlisle and Springfield.

And then he withdrew.

A message from the senate by Mr. Davidson:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to amend an act entitled, an act concerning attornies for the commonwealth—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the governor by MR Anderson:

*Mr. Speaker*,

I am directed by the governor to inform this house, that he did on this day approve and sign enrolled bills which originated in this house of the following titles:

An act for the benefit of the heirs of William Allen, dec.

An act imposing a duty on sales at auction in the county of Jefferson for the benefit of the Louisville Hospital.

An act giving further time to return plats and certificates of survey.

Resolutions concerning the occupying claimaint laws and the decision of the supreme court of the United States thereon.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

The house took up the resolution from the senate fixing on a day for the election of two commissioners agreeably to resolutions concerning the occupying claimant law, which being twice read and amended by striking out the 17th and inserting the 18th, was concurred in.

*Ordered*, That mr. Warfield inform the senate thereof and request their concurrence in said amendment.

The house took up the amendments proposed by the senate to a bill which originated in this house entitled, an act to establish a Literary fund and for other purposes, which being twice read the first, second, third, fourth and fifth, were concurred in. The sixth amendment of the senate, which proposes to add the following preamble and sections to said bill, was then read and amended as follows, viz:

And whereas, all well regulated systems of general education, different grades of literary institutions ought to be established, in which the poor and most humble of our citizens can equally participate with the wealthy, as the most splendid talents are often drawn from obscurity and indigence, and as the genius of our government opens the door

of office to all classes of society, it is deemed just and reasonable, that there should be one common head to all the literary institutions of the state, and which shall combine the free schools and colleges into one central point; and as the Transylvania University belongs to the state, it ought to be so organized that this desirable object can be effected: Therefore,

The board of trustees of Transylvania University shall, prior to the first day of February, 1822, file with the cashier of the Branch Bank of the Commonwealth of Kentucky located in Lexington, a correct and detailed statement of the debts due by said institution, or contracted prior to the first day of December, 1821. And the cashier of said branch bank is hereby directed to pay over to the treasurer of the board of trustees of said University, under the order of said board, one half of the clear profits which may have accrued upon the loans made by said branch bank, or which may from time to time accrue and be declared, until said debts so due and contracted, shall be discharged: *Provided*, the sum hereby appropriated shall not exceed the sum of twenty thousand dollars.

It shall be the duty of the chairman of the board of trustees of said University, and of the cashier of the said branch bank of the Commonwealth, to report to the general assembly within ten days after the meeting of the next legislature, the amount of money paid to the treasurer of said board of trustees under the provisions of this act.

*Be it further enacted*, That Alexander Parker, John Bradford, William Leavy and John Tilford, shall be and are appointed, trustees of the Transylvania University, in addition to those already elected at the present session; and the said trustees hereby appointed, with those already elected, shall continue in office and exercise all the powers belonging to the trustees of the said University under or by virtue of the laws now in force, until the legislatnre shall deem it expedient to make another election or choice of trustees for said institution.

*Be it further enacted*, That it shall be the duty of the trustees of the said University, to manage the affairs and regulate the expences of said institution, according to its funds and revenues, without any view to further appropriations from the Legislature; and they are hereby expressly interdicted from incurring any debts under a hope or expectation of aid from this government, or which may endanger or impair the funds or property belonging to said in-

stitution, it being the true intent of this act to terminate all claim on the part of said University, to support from the public treasury, or other funds of the government.

It was then moved and seconded to substitute the following in lieu of the said sixth amendment of the senate as amended, viz:

That for the purpose of paying the present debts of the University, the trustees of said University may, if necessary, convey to the Commonwealth of Kentucky all or any part of the stock held by said University in the state Bank of Kentucky; and upon proper vouchers of such conveyance being presented to the auditor of public accounts, he shall give his warrant on the treasurer for the sum of dollars, for each and every share so conveyed to this commonwealth by said trustees; and said treasurer shall pay the same out of any moneys in the treasury not otherwise appropriated.

And the question being taken on agreeing thereto, it was decided in the negative.

The yeas and nays being required thereon by messrs. M. Hardin and Miller, were as follows, viz:

Yeas—Messrs. Allen, J. S. Anderson, Cockerill, Dejarnett, Eaves, Green, J. G. Hardin, M. Hardin, Inglish, Kincheloe, King, Litton, Lecompte, Lynch, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Pearcy, Sandford, Selby, Stone of Wayne, J. Taylor, Yancey and Younger—31.

Nays—mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Bruce, A. Butler, W. O. Butler, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Duncan, Fletcher, Gaither, Gordon, Griffith, Herald, Howard, Jackman, Lockett, Logan, Love, Luckett, B. Mason, J. Mason, May, M'Connell, Moore, Murray, Payne, Pendleton, Pope, Rudd, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Worthington and Yantis—55.

The question was then taken on concurring in said amendment as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Noland and Moore, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Bruce, A. Butler, W. O. Butler, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Jackman, Lockett, Logan, Love, Luckett,

J. Mason, May, M'Connell, Moore, Murray, Payne, Pope, Rudd, Shannon, Slack, Slaughter, Smith, Speed, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon and Worthington—44.

Nays—messrs. Allen, J. S. Anderson, Cockerill, Cravens, Dejarnett, Duncan, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Lynch, B. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Pearcy, Pendleton, Sandford, Selby, Stone of Madison, Stone of Wayne, J. Taylor, Wiley, Yancey, Yantis and Younger—43.

The seventh amendment of the senate which proposes to add to the bill the following as an additional section, was also read as follows:

That for the purpose of enabling the trustees of the Centre College of Kentucky, to purchase a library and philosophical apparatus, the one third of the clear profits of the Branch Bank of the Commonwealth of Kentucky located at Harrodsburg, so far as the same is derived from the borrowers in the county of Mercer, be, and the same is hereby appropriated, for and during the term of two years, to commence on the first day of January next; and the same shall be paid over by the cashier of said branch semi annually, to the order of the board of trustees of said College.

It was then moved and seconded to amend said amendment by adding thereto the following words:

*And be it further enacted*, That there shall be and is hereby appropriated, to each seminary of learning in this commonwealth, where academies now exist, the sum of one thousand dollars for the benefit of tuition in said seminaries; and that the auditor of public accounts be, and he is hereby required, to issue his warrant to the treasurer for the same, upon the application of the trustees of said seminaries.

And the question being taken on agreeing to the amendment to the amendment, it was decided in the negative.

The yeas and nays being required thereon by messrs. Noland and Allen, were as follows, viz:

Yeas—messrs. Allen, J. S. Anderson, Eaves, Gordon, M. Hardin, Herald, Kincheloe, Lynch, J. Mason, May, M'Clanahan, Mullens, Noland, Owsley, Pendleton, Selby, Slack and J. Taylor—18.

Nays—mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Bruce, A. Butler, W. O. Butler, Catlett,

Clark, Cockerill, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Dejarnett, Desha, Duncan, Fletcher, Gaither, Green, Griffith, J. G. Hardin, Howard, Inglish, Jackman, King, Litton, Lecompte, Lockett, Logan, Love, Luckett, B. Mason, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Munford, Murray, Payne, Pearcy, Pope, Rudd, Sandford, Shannon, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Yancey, Yantis and Younger—67.

The question was then taken on concurring in the said seventh amendment, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Noland and Cowan, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brooking, Bruce, A. Butler, W. O. Butler, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Fletcher, Howard, Jackman, Litton, Lockett, Logan, Love, Luckett, J. Mason, M'Connell, S. M'Elroy, Moore, Murray, Payne, Pope, Rudd, Shannon, Slaughter, Smith, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon, Worthington and Yantis—45.

Nays—messrs. Allen, J. S. Anderson, Cockerill, Cravens, Dejarnett, Desha, Duncan, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Kincheloe, King, Lecompte, Lynch, B. Mason, M'Clanahan, H. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Pearcy, Pendleton, Sandford, Selby, Slack, Speed, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Wiley, Yancey and Younger—43.

The eighth amendment proposed by the senate to said bill, was then read as follows:

For the purpose of enabling the trustees of the Southern College of Kentucky to purchase a library and philosophical apparatus, the one third of the clear profits of the Branch Bank of the Commonwealth located at Bowling-Green, so far as the same is derived from the borrowers who reside in the county of Warren, be, and the same are hereby appropriated for and during the term of two years, to commence on the first day of January next; and the same shall be paid over by the cashier of said branch semi-annually, to the order of the board of trustees of said College.

And the question being taken on concurring in said amendment, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Noland and M. Hardin, were as follows:

Yeas—Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brocking, Bruce, A. Butler, W. O. Butler, Catlett, Clark, Cockerill, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Duncan, Fletcher, Herald, Howard, Jackman, Lockett, Logan, Love, Luckett, Lynch, J. Mason, M'Connell, Moore, Murray, Payne, Pope, Rudd, Shannon, Slaughter, Smith, B. Taylor, C. H. Taylor, Todd, Warfield, White, Wickliffe, Witherspoon, Worthington and Yantis—47.

Nays—messrs. Allen, J. S. Anderson, Cravens, Dejarnett, Desha, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Inglish, Kincheloe, King, Litton, Lecompte, B. Mason, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, Pearcy, Pendleton, Sandford, Selby, Slack, Speed, Stone of Madison, Stone of Wayne, Talbot, J. Taylor, Wiley, Yancey and Younger—41.

*Ordered*, That Mr. Cowan inform the senate thereof and request their concurrence in the amendments proposed.

A message from the senate by Mr. M'Afee:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house upon concurring in those proposed by the senate to a bill which originated in this house entitled, an act to establish a Literary fund and for other purposes.

And then he withdrew.

A message from the senate by Mr. Williams:

*Mr. Speaker*,

The senate have passed a bill entitled, an act for the benefit of Marcus Thomas—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Throckmorton:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act for the benefit of the heirs of Archibald Marshall, dec.

And then he withdrew.

The house took up the amendments proposed by the senate to bills which originated in this house of the following titles: An act to ascertain and mark the division line be-

tween the counties of Grant, Boone and Gallatin; an act to authorise the county courts of Bracken, Fayette and Mason to build poor houses; an act for the division of Floyd county; an act to repeal in part an act entitled, an act for establishing and laying off a town at the Iron Banks, approved December 27th, 1820; an act for the relief of Culvin Sanders and Elizabeth Davenport; and an act for the divorce of sundry persons.

Which being twice read were concurred in, with an amendment to those proposed to the latter bill.

*Ordered*, That mr. Wickliffe inform the senate thereof and request their concurrence in the said amendment.

A message from the senate by mr. Ewing:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house to a resolution from the senate fixing on a day for the appointment of commissioners pursuant to resolutions concerning the occupying claimant laws. They have passed bills which originated in this house of the following titles: An act to amend an act appointing persons to view a way for a road from Danville to the Tennessee line; an act for the benefit of the widow and heirs of Martin Hawkins and Henry Clifton, deceased; an act to declare Cabbin creek a navigable stream; an act for the benefit of Mary Prewitt, administratrix of Anderson L. Prewitt, deceased; and an act for a change of venue in the case of Elisha English.—They recede from their third amendment proposed to a bill from this house entitled, an act for the divorce of sundry persons. They disagree to a bill which originated in this house entitled, an act to regulate proceedings on contracts for specie; and they have passed a bill entitled, an act to amend the laws in relation to executions—in which latter bill they request the concurrence of this house.

And then he withdrew.

The following bills were severally read a second time, viz: 1. A bill to amend the act extending the charter of the Bank of Kentucky; 2. a bill concerning champerty and maintainance; 3. a bill for the benefit of the heirs of James White; 4. a bill for the benefit of Ambrose Camp; 5. a bill from the senate entitled, an act to explain and amend the penal laws as respects the trial and punishment of slaves; 6. a bill from the senate entitled, an act to amend the act vesting jurisdiction in the circuit courts to authorise the sale of the real estate of infants in certain cases; 7. a bill

for the benefit of Joseph Crawford; and 8. a bill altering the mode of laying the county levy.

The 1st, 2d, 3d, 5th and 6th were severally ordered to be laid on the table—the second until the first day of March next; the 4th and 7th (the 7th being amended) were severally ordered to be engrossed and read a third time.

And thereupon the rule of the house, constitutional provision and third reading of the 4th and 7th bills being dispensed with, and the same being engrossed.

*Resolved*, That the said bills do pass; that the title of the 4th be as aforesaid, and that of the 7th be amended to read "an act for the benefit of Joseph Crawford and Robert Claghorn."

*Ordered*, That MR. Craig carry the said bills to the senate and request their concurrence.

It was then moved and seconded to postpone the further consideration of the eighth bill until the first day of June next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Wickliffe and Yancey, were as follows:

Yeas—messrs. R. C. Anderson, Barnett, Bruce, Craig, Cravens, Davis, Fletcher, Gaither, Green. Griffith. M. Hardin, Inglish. Kincheloe, King, Litton, Lockett, Luckett, B. Mason. M'Connell. S. M'Elroy, M'Millan, Miller, Moore, Munford, Noland, Owsley, Patterson, Payne, Pearcy, Selby, Shannon, Slack, Smith. Speed, Stone of Madison, Talbot, Warfield, Witherspoon, Yantis and Younger—40.

Nays—MR. Speaker, messrs. Alexander, Allen, J. S. Anderson, Bradford, Brooking Catlett, Clark. Cockerill, Cogswell, Cosby, Crawford, Dejarnett. Desha, Duncan, Eaves, Gordon, J. G. Hardin, Herald, Howard, Jackman, Lecompte, Logan, Love. Lynch, J. Mason, May. M'Clanahan, M'Cracken, Mullens, Murray, Pendleton, Rudd, Slaughter, Stone of Wayne, J. Taylor, C. H. Taylor, White, Wickliffe, Wiley and Yancey—41.

*Ordered*. That the said bill be committed to a select committee of messrs. Cosby, Wickliffe, Lynch, White and Howard.

Bills from the senate of the following titles: 1. An act to regulate sales of real estate by the collector of the town tax of Bardstown; and 2. an act to add a fourth judge to the court of appeals and for other purposes.

Were severally read the first time.

The first was ordered to be read a second time; and the question being taken on reading the second bill a second time it was decided in the negative, and so the said bill was rejected.

And thereupon the rule of the house, constitutional provision and second and third readings of the former bill being dispensed with,

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. Wickliffe inform the senate thereof.

A message from the senate by Mr. Pope:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act for the benefit of Ambrose Camp.

And then he withdrew.

And then the house adjourned.

## TUESDAY, DECEMBER 18, 1821.

The messages of the Governor communicated to this house on the 10th and 14th instant, were taken up and read as follows:

*Gentlemen of the Senate,*
*and of the House of Representatives,*

I have just received a letter from one of the managers of the Asylum established in the city of Cincinnati, for the education of the deaf and dumb, together with an advertisement accompanying the same; which letter and advertisement, I beg leave to lay before you for your consideration.

JOHN ADAIR.

*December 13th*, 1821.

CINCINNATI, Nov. 10, 1821.

*Dear Sir*,

Being confident that you feel a deep interest in whatever tends to promote the dignity of human nature and increase the means of human happiness, I have taken the liberty of enclosing an advertisement which has recently appeared in the papers of this city. The education of the deaf and dumb has for several years past, as you well know, excited a deep interest both in Europe and America; and when the Asylum was established at Hartford, Connecticut, in 1816, some of the adjacent states made appropriations for the benefit of the poorer class of this interesting, but unfortunate portion of their own citizens. Understanding that the Treasury of your state is highly replenished, and

knowing that your legislature is influenced by principles of humanity and philanthropy, I thought it not improbable that if the subject were laid before them, an appropriation of money might be made and placed at your disposal, for the education of the deaf and dumb of Kentucky, who may be indigent, in the Asylum established at this place. I am well satisfied, that local prejudices can have no place in the policy which may be pursued on this subject. My hope is, that your excellency will, in such manner as may be most consistent with your own views of propriety and benevolence, bring this subject before the legislature of Kentucky as soon as practicable, and I entertain but little doubt of their making a benevolent and generous appropriation for the unfortunate of their own state; and further, I expect them not to go.

Permit me to add, that the number of deaf and dumb in any given district, is greater than we at first imagine. One to every two thousand inhabitants has been found to be the general ratio. Many of these are found among the poor, and no one who has not witnessed the experiment, can conceive of the benefits which they derive from a good education. On a subject of this kind, I need not multiply words to a gentleman of your intelligence and observation, and therefore, I submit the matter to your own disposal, subscribing myself your excellency's

Friend and obedient servant,

J. L. WILSON.

*One of the Managers of the Cincinnati Asylum for the education of the deaf and dumb in the west, and Pastor of the 1st Presbyterian Church of this City.*

## Cincinnati Asylum for the education of the Deaf and Dumb.

The patrons of this institution, the public in general, and the friends and relatives of this interesting class of society in particular, are hereby informed, that a school on the most improved plan of education for the deaf and dumb, will be opened in this city on the first of January next, under the immediate superintendance and personal instruction of James Chute, who has spent considerable time in qualifying himself for the arduous and benevolent task.

Mr. Chute is now in the American Asylum in Hartford, Connecticut, and is expected to return to this place early in next month. He is a gentleman of unblemished moral character, exemplary piety, agreeable manners and liberal edu-

cation. His lady, by her experience and accomplishments, is well qualified to be 'a help mate for him' in this institution.

Tuition will be not more than six dollars per quarter; and boarding, washing and lodging not more than three dollars per week.

Those who wish to enter pupils on the 1st of January next, will make it known to the trustees as soon as possible.

As this institution is designed to aid the cause of humanity and alleviate the sufferings of the afflicted, and as it must for a time at least, be entirely supported by private patronage, it is confidently hoped, that printers throughout our states and territories will, without an exception, give this publication one or two conspicuous insertions in their respective journals.

Communications on the subject of this institution directed to the Rev. Wm. Burke, post-master, Cincinnati, will be thankfully received and duly appreciated.

WILLIAM STEELE,
OLIVER M. SPENCER,
SAMUEL JOHNSTON,
DAVID ROOT,
WM. BURKE,
THOMAS TUCKER,
JOSHUA L. WILSON.
} *Trustees.*

November 8th, 1821.

SECRETARY'S OFFICE, DEC. 10, 1821.

*Gentlemen of the Senate.*
*and of the House of Representatives,*

I have just received a letter from the Mayor of the city of Washington, enclosing a memorial of the Mayor, Aldermen and Common Council of that city, addressed to the Senate and House of Representatives of Kentucky; and which I hasten to lay before you for your consideration.

JOHN ADAIR.

CITY OF WASHINGTON, NOV. 22, 1821.

*To his Excellency, John Adair, Governor of the state of Ken.*

SIR,

Under the instructions of the corporation of this city, I have the pleasure to transmit to you a memorial, which they request the favor of you to lay before the legislature of the state over which you have the honor to preside.

If the object of the memorial should meet with your approbation, it will be an additional obligation conferred on us, to give it your countenance.

With high respect,

I have the honor to be, sir,

Your ob't serv't,

SAML. M. SMALLWOOD, *Mayor.*

*To the Senate and House of Representatives of Kentucky.*

The memorial of the Mayor, Aldermen and Common Council of the city of Washington, in the District of Columbia, respectfully represents:—

That by the act of congress of the 15th May, 1830, reviving and amending a preceding act, giving the same authority, the corporation of the said city is invested with power to authorise, with the approbation of the President of the United States, the drawing of lotteries for effecting important improvements in the city, which the ordinary revenue thereof will not accomplish, for the term of ten years, provided that the amount so authorised to be raised in each year, shall not exceed the sum of ten thousand dollars.

That in pursuance of this act and of that of similar tenor, which was previously in existence, resolutions have been passed from time to time, with the approbation of the present and late Presidents of the United States, authorising lotteries for purposes which the ordinary revenues of the city could not accomplish, such as the building of a city hall, of Lancasterian schools, of a penitentiary, &c.

That just as these lotteries have been put into successful operation, it appears, that by prohibitory laws in some of the states in the Union and the apprehension of them in others, the purpose of the said lotteries is in a great measure defeated, and the intentions of congress in favor of this city thus far frustrated.

Under these circumstances the undersigned are emboldened to approach your honorable body, and in behalf of their fellow-citizens, to apply for your active interposition in their favor.

When it is considered, that little more than twenty years ago the ground on which this city is laid out, was for the most part, covered only with woods and impassable marsh, without inhabitants save the occupants of one or two farms, the labor which has devolved on its first settlers may be conceived, but can hardly be realised by those who have not had the opportunity of personal observation. They were the

pioneers to a population which has now become respectable in numbers; but employing all their earnings in earnest and unanimous endeavors to improve the city, and devoting to that object all their savings, have rather impoverished than enriched themselves by their choice of this city for a home.

The cities of the old world and even those of the new, have had small beginnings, and have risen gradually by the profits of trade and commerce to their present numbers. Without such aid, but solely by the steady and persevering efforts of its inhabitants—efforts multiplying as their number has increased, and all directed to the same object, this city has grown more rapidly than any other in this country. The only parallel to it that we are acquainted with, even in history, is the city of St. Petersburg in Russia. But when the Czar Peter determined to transfer his seat of government from Moscow to an uninhabited spot at the mouth of the Neva, he employed in that object three hundred thousand men, assisted by the wealth of his empire and all the aids of despotic coercion; roads, bridges and buildings, sprung up at the word of command. Between that city and the city of Washington the contrast is in this respect, yet more striking than is the resemblance in others. The government of the Union did not even make a road to its embryo city, or open a passage through it; all was left to individual enterprize. The authority to raise money by way of lottery, limited as before described, is *the only direct aid* that the general government has ever given to the city of Washington; and of that resource we are now in danger of being deprived by the legislation of the several states.

We beg leave to represent further, that the extensive plan of this city, though wisely devised for the purposes of futurity, subjects the present generation to enormous expences in making streets and avenues, as much for the accommodation of the people of the United States in general, members of congress and others, as for those of this city. There are many other expences necessarily incurred, burthensome to our people, in which the whole Union is interested, not to speak of that interest which all are supposed to feel in the respectability of the metropolis. Often have we had to provide sustenance for the soldier of the revolution or of the late war, who has travelled here from a distance to seek for his real or supposed rights, and has found a refuge from the inclemency of the season only by the bounty of this corporation, extended frequently to numbers at a time. We mention not this to boast of it, but

to illustrate the nature of the many drains on our limited resources for the supply of wants which are not our own.

Under the pressure of these accumulated burthens, and the necessity we are under of erecting bridges, markets, churches, &c. in numbers suited the area we occupy and to the future grandeur of our country, rather than to our numbers, we have it not in our power to provide for the erection of buildings suited to general purposes and correspondent to the plan of the city, without extraneous aid. Our city hall, begun under the auspices of congress, and intended for the accommodation of the circuit court of the United States and of our city authorities, is checked in its progress by the obstacles thrown in the way of our lotteries, which prevent us from deriving thence the funds on which we had confidently relied for its completion.

Of the constitutional question which has been raised in regard to our lotteries, we do not undertake to judge. It is sufficient that it has been made and decided in favor of the state prohibitory laws. In the particular case which was argued and decided before the supreme court at its last term, this corporation was not in any manner a party; the scheme of the lottery having been disposed of by the corporation before the question was raised. We have engaged in no controversy with the states; and seek now only to be placed by their good will towards us, in the situation in which we should have stood, but for the state laws recently enforced against us. In asking this, we ask from the states no more than we have always rendered to them. There never has been, nor is there now in force in this city or district, any law or ordinance embarrassing the sale of tickets in lotteries authorised by any of the states of this Union.

An impression, we understand, prevails in some quarters, that the government of the United States has expended on the public buildings in this city, a great amount of the money collected from the people of the United States. As this impression might be fatal to the object of this memorial, the undersigned take this occasion to state, that the money derived from the sale of lots ceded to the government and from donations, added to the value of lots and reservations not disposed of, amounts to at least double the sum of the money expended on all the public buildings in Washington, and to much more than will have been expended when all the public buildings shall have been completed, in the greatest extent ever contemplated. These buildings, it will be remembered, are all exclusively for the use of the United

States; whilst those which we are about to erect are for general use, as well as for the convenience of the city, receiving no aid from the congress or people of the United States; but such as we may hope to realize from lotteries, established under the authority of the act of congress.

Under these circumstances, appealing to the feelings which kindle in every breast at the name of WASHINGTON, the founder of the city which we are struggling to make in some degree worthy of his fame; relying on the equity of our claim to toleration, at least from those who, as well as ourselves, are to enjoy the advantages of the indulgence we ask, we present ourselves, with deference before your honorable body, soliciting that you will be pleased to pass an act authorising the sale within the state of Kentucky, of tickets in any lottery which has been or may be, authorised for public purposes in the city of Washington; or at least, considering the nature of the objects of these lotteries, that you will be pleased to put them on the same footing as lotteries authorised by the laws of the state of Kentucky. By the kindness of the legislatures of the several states, co-operating with the act of congress in our favor, we shall have it in our power to complete important public undertakings, commenced with full confidence under the sanction of the act of congress; whilst in that very act is contained the limitation which guards from any possible abuse, the privilege which we now ask at your hands.

In behalf of the citizens of Washington.

SAMUEL M. SMALLWOOD, *Mayor.*
R. C. WEIGHTMAN,
CH. W. GOLDSBOROUGH,
ANDREW HUNTER,
T. P. ANDREWS. } *Committee.*

November 22, 1821.

A message from the senate by mr. Ewing:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act to amend an act for surveying the military claims west of the Tennessee river, approved December 26th, 1820.

And then he withdrew.

A message from the senate by MR. Dawson:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act for the relief of the sheriff of Warren

county, with amendments—in which they request the concurrence of this house.

And then he withdrew.

The following bills were reported from the several committees appointed to prepare and bring in the same, viz:

By mr. B. Taylor—1. A bill for the benefit of the widow and heirs of Alexander Andrews, dec. of Woodford county.

By mr. Payne from the committee of religion—2. A bill for the relief of Nancy Howard.

And 3. A bill for the relief of Elizabeth Carstarphen.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the second and third bills being dispensed with, (the third having been amended at the clerk's table) and the same being engrossed,

*Resolved*, That the said bills do pass; that the title of the second be as aforesaid, and that of the third be amended to read 'an act for the relief of Elizabeth Carstarphen and Abigail Birdwell.'

*Ordered*, That mr. Payne carry the said bills to the senate and request their concurrence.

Mr. Payne from the committee of religion, also reported the case of Polly Chambers, referred to said committee, with the affidavits, &c.

*Ordered*, That said documents be referred to a select committee of messrs Clark, Payne, Jackman and B. Taylor, giving said committee leave to report thereon by bill or otherwise.

A message from the senate by mr. Ewing:

*Mr. Speaker*,

The senate have received official information, that the governor did on the 14th inst. approve and sign enrolled bills which originated in the senate of the following titles:

An act for the benefit of the sheriffs of Wayne and Campbell counties.

An act forming the county of Lawrence out of parts of the counties of Greenup and Floyd.

An act for the benefit of Samuel Lewis and others.

An act for the benefit of the widow and heirs of John R. Chitwood.

An act to amend the act altering the mode of taking in the lists of taxable property.

An act to authorise the sale of part of the real estate of Alexander Dunbar and Henry E. Wax, dec.

And on the 17th those of the following titles:

An act to amend the militia law.

An act to abolish imprisonment for debt and subject equitable interests to execution.

And they have passed a bill which originated in this house entitled, an act providing a mode for this state receiving the net profits at the Commonwealth's Bank, with an amendment—in which they request the concurrence of this house.

And then he withdrew.

Mr. Pope nominated messrs. Henry Clay and John Rowan as proper persons to act as commissioners pursuant to joint resolutions concerning the occupying claimant laws; and mr. Worthington nominated mr. George M. Bibb.

*Ordered*, That mr. Pope inform the senate of the said nominations, and that this house is now ready by a joint vote with the senate, to proceed to the said election.

A message from the senate by mr. Faulkner:

*Mr. Speaker*,

The senate are now ready by a joint vote with this house to proceed to the election of two commissioners, pursuant to resolutions concerning the occupying claimant laws; and the same gentlemen stand on the nomination before the senate, as those reported from this house.

And then he withdrew.

The house then proceeded to the said election, and after taking a vote it stood thus:

For mr. H. Clay—mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brooking, Bruce, A. Butler, Catlett, Cockerill, Cogswell, Cosby, Cowan, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, Herald, Howard, Inglish, Jackman, Johnson, Kincheloe, King, Litton, Lecompte, Lockett, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, M'Millan, M'Crackeu, Miller, Munford, Murray, Noland, Owsley, Patterson, Payne, Pearcy, Pendleton, Pope, Rudd, Selby, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Worthington, Yancey and Yantis—88.

For mr. John Rowan—mr. Speaker, messrs. Alexander, Allen, Barnett, Bradford, Buford, W. O. Butler, Clark, Cosby, Cowan, Craig, Cravens, Davis, Eaves, Gaither,

Gordon, Green, Herald, Jackman, Kincheloe, King, Lockett, Luckett, B. Mason, S. M'Elroy, M'Millan, M'Crackeu, Miller, Moore, Mullens, Munford, Murray, Noland, Owsley, O'Bannon, Patterson, Payne, Pearcy, Pope, Sandford, Selby, Shannon, Slaughter, Smith, Speed, Stone of Madison, Thompson, White, Wickliffe, Witherspoon, Yantis and Younger—52.

For mr. George M. Bibb—messrs. J. S. Anderson, R. C. Anderson, Brooking, Bruce, Buford, A. Butler, W. O. Butler, Catlett, Clark, Cockerill, Cogswell, Craig, Crawford, Dejarnett, Desha, Duncan, Fletcher, Griffith, J. G. Hardin, Howard, Inglish, Johnson, Litton, Lecompte, Logan, Love, Lynch, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, Moore, Mullens, O'Bannon, Pendleton, Rudd, Sandford, Slack, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Todd, Warfield, Wiley, Worthington, Yancey and Younger—51.

A committee was then appointed on the part of this house to meet a committee from the senate to compare the joint vote and report the state of the same.

The said committee then retired and after a short time returned, when the joint vote was reported to stand thus:

| | |
|---|---|
| For mr. Henry Clay, | 119 |
| mr. John Rowan, | 68 |
| mr. George M. Bibb, | 73 |

Whereupon messrs. Henry Clay and George M. Bibb having the greatest number, (and each a majority of all the votes given) were declared duly elected.

mr. Yantis from the joint committee of enrolments, reported that the committee had examined an enrolled bill entitled, an act establishing a literary fund and for other purposes.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

The house then according to the standing order of the day, resolved itself into a committee of the whole house on the state of the commonwealth, mr. Pope in the chair, which being resumed by the Speaker, mr. Pope reported that the committee had, according to order, had under consideration a bill for the appropriation of money, and had gone through the same with sundry amendments.

Which being twice read were concurred in; and the said bill being further amended, was, with the amendments, ordered to be engrossed and read a third time.

And thereupon the rule of the house and third reading of said bill being dispensed with,

It was then moved and seconded to fill the blank in the item making an allowance to the commissioners appointed under the resolutions concerning the occupying claimant laws, *with the sum of* $ 2,000 *each.*

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Craig and J. S. Anderson, were as follows:

Yeas——mr. Speaker, messrs. Alexander, Allen, J. S. Anderson, R. C. Anderson, Bradford, Bruce, Catlett, Clark, Cogswell, Coshy, Cowan, Cravens, Crawford, Davis, Dejarnett, Desha, Duncan, Fletcher, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Jackman, Johnson, Kincheloe, Lecompte, Lockett, Logan, Love, Luckett, Lynch, J. Mason, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, Noland, Patterson, Payne, Pendleton, Pope, Shannon, Slack, Slaughter, Speed, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Warfield, Wickliffe, Wiley, Witherspoon, Worthington, Yancey and Younger—61.

Nays—messrs. Barnett, Brooking, Buford, Cockerill, Craig, Eaves, Green, Inglish, King, Litton, B. Mason, May, M'Cracken, Miller, Moore, Mullens, Munford, Murray, Owsley, Pearcy, Sandford, Selby, Smith, Stone of Madison, Stone of Wayne, White and Yantis—27.

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Howard carry the said bill to the senate and request their concurrence.

Mr. Warfield read and laid on the table the following resolutions:

*Resolved by the General Assemby of the Commonwealth of Kentucky*, That 2000 copies of the laws and 800 copies of the journals of the present session of the legislature, be printed by the public printers and bound by Wm. Wood, and be delivered to the secretary of state for distribution, half bound, with leather backs and corners, neatly lettered and rolled: And that after supplying each member of the legislature with a copy of the journals of each house, and the clerks of the senate and house of representatives, the remaining copies shall be retained in the secretary's office, subject to be called for from time to time, as they may be wanted for the use of subsequent legislatures.

*Resolved*, That the public printers be, and they are hereby required, to publish a general fee bill, as an appendage to the acts and resolutions of the present general assembly; which fee bill shall contain all such fees of office as are now in force in this commonwealth—and that mr. Jacob Swigert be requested to furnish the same.

*Resolved*, That the Governor be requested to employ some suitable person to distribute said laws and journals.

And thereupon the rule of the house being dispensed with, the said resolution was taken up, twice read and adopted.

*Ordered*, That mr. Warfield carry the said resolution to the senate and request their concurrence.

Mr. Cowan moved the following resolution:

*Resolved*, That the public printers forthwith print 1500 copies of the act abolishing imprisonment for debt and subjecting equitable interests to execution, and 1500 copies of the act to amend the militia law, for the use of the members of this house.

Which being twice read was adopted.

A message from the senate by Mr. Marshall:

*Mr. Speaker*,

The senate have passed a bill for the benefit of the sergeant of the court of appeals—in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to extend the prison bounds—in which they request the concurrence of this house.

And then he withdrew.

The house took up the amendments proposed by the senate to bills which originated in this house of the following titles: An act providing a mode for this state receiving the net profits at the Commonwealth's Bank; an act for the relief of the sheriff of Warren county.

Which being twice read were concurred in.

*Ordered*, That Mr. Slaughter inform the senate thereof.

A bill further to regulate circuit courts in this commonwealth, was read a second time.

And the question being taken on engrossing the said bill and reading it a third time, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. M'Clanahan and Inglish, were as follows, viz:

Yeas—Messrs. Alexander, Allen, Bradford, Brooking, Bruce, Buford, Craig, Crawford, Davis, Desha, Duncan, Fletcher, Gaither, Green, Griffith, Herald, Kincheloe, Lecompte, Luckett, Lynch, May, M'Clanahan, H. M'Elroy, S. M'Elroy, Miller, Moore, Mullens, Noland, Patterson, Pearcy, Rudd, Sandford, Selby, Shannon, Slack, J. Taylor, C. H. Taylor, Wiley and Worthington—39.

Nays—mr. Speaker, messrs. J. S. Anderson, R. C. Anderson, Barnett, W. O. Butler, Clark, Cockerill, Cosby, Cowan, Cravens, Dejarnett, Eaves, Gordon, J. G. Hardin, M. Hardin, Howard, Inglish, Jackman, Litton, Lockett, Logan, Love, B. Mason, M'Connell, M'Cracken, Munford, Murray, Smith, Speed, Stone of Wayne, Thompson, Warfield, Wickliffe, Witherspoon, Yancey, Yantis and Younger—37.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker,*

I am directed by the governor to inform this house, that he did on this day approve and sign an enrolled bill which originated in this house entitled, an act to establish a literary fund and for other purposes.

And then he withdrew.

*Ordered*, That mr. Crawford inform the senate thereof.

The following bills from the senate were severally read the first time: 1. an act for the benefit of Peter Watts and John Curd's heirs; 2. an act to amend an act regulating divorces; 3. an act to extend the prison bounds; 4. an act forming the counties of Hickman, Graves, Calloway and M'Cracken, on the southwest side of the Tennessee river; 5. an act declaring the punishment of free white male persons found guilty of petit larceny: 6. an act for the benefit of Guillaume Marie Paul Villeminot; 7. an act to amend an act regulating jailers' fees, approved January 21, 1818.

The 1st, 3d, 4th, 5th and 6th, were severally ordered to be read a second time; the second was postponed until the first day of June next.

And the question being taken on reading the 7th bill a second time, it was decided in the negative, and so the said bill was rejected.

And thereupon the rule of the house, constitutional provision and second readings of the 1st, 3d, 4th and 5th bills being dispensed with, the 1st, 3d and 4th were ordered to be read a third time, and the fifth was committed to a select committee of messrs. Shannon, Wickliffe and Smith.

And thereupon the rule of the house, constitutional provision and third readings of the 1st, 3d and 4th bills being dispensed with,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That mr. Cowan inform the senate thereof.

A bill to reduce the number of officers in the state Bank and its branches, was read a second time.

It was then moved and seconded to postpone the further consideration of said bill until the first day of June next.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Cosby and Warfield, were as follows, viz:

Yeas—Mr. Speaker, messrs. R. C. Anderson, Barnett, Bradford, Buford, W. O. Butler, Clark, Cogswell, Cowan, Cravens, Davis, Dejarnett, Desha, Eaves, Fletcher, Gaither, Griffith, J. G. Hardin, Howard, Jackman, Johnson, Logan, Love, B. Mason, J. Mason, May, M'Connell, M'Millan, Moore, Noland, Owsley, Pendleton, Pope, Sandford, Selby, Shannon, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, C. H. Taylor, Warfield, Wickliffe, Wiley, Witherspoon, Worthington, Yancey & Younger—50.

Nays—messrs. Alexander, Allen, Brooking, Bruce, Catlett, Cockerill, Cosby, Craig, Crawford, Duncan, Gordon, Green, Herald, Inglish, King, Lecompte, Lockett, Luckett, Lynch, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, Murray, Pearcy, Rudd, Slack, J. Taylor, White and Yantis—33.

On the motion of mr. Fletcher,

*Ordered*, That leave be given to bring in a bill to repeal in part an act regulating clerks' fees and for other purposes, approved February 4th, 1817; and that messrs. Fletcher, Moore and King be appointed a committee to prepare and bring in the same.

The house took up the amendments proposed by the senate to resolutions which originated in this house concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky.

Which being twice read, the first was disagreed to and the second concurred in.

*Ordered*, That Mr. Pope inform the senate thereof.

And then the house adjourned.

## WEDNESDAY, DECEMBER 19, 1821.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills of the following titles: An act to amend and repeal in part an act entitled, an act for establishing and laying off a town at the Iron Banks, approved Dec. 27th, 1820; an act to amend an act concerning a house of public worship in the town of Frankfort; an act for the divorce of sundry persons'; an act for the benefit of the heirs of Wm. Shannon & Jas. Bristoe; an act for the benefit of the seminary in Harlan county; an act for the benefit of Henry S. Langford, infant heir of Stephen Langford, deceased; an act to ascertain and mark the division lines between certain counties; an an act to amend an act appointing persons to view a way for a road from Danville to the Tennessee line; an act for the benefit of Champ Mullens of Rockcastle county; an act for a change of venue in the case of Elisha English; an act for the benefit of Ambrose Camp; an act for the benefit of the widow and heirs of John Willett, deceased; an act for the benefit of Culvin Sanders and Elizabeth Davenport; an act authorising the trustees of the Union academy to sell certain lands: an act concerning Jeffersontown in Jefferson county; an act for the better regulation of the towns of Carlisle and Springfield; an act for the relief of Andrew Craig; an act for the benefit of the clerk of the Nicholas circuit court and for other purposes; an act for the benefit of Archibald Marshall, deceased; an act for the division of Floyd county; an act for the benefit of the widow and heirs of Martin Hawkins and Henry Clifton, dec.; an act to declare Cabbin creek a navigable stream; an act for the benefit of Mary Prewitt, administratrix of Anderson L. Prewitt dec.; an act to amend an act for surveying the military claims west of the Tennessee river, approved Dec. 26, 1820; an act authorising the sale of the real estate and slaves of certain persons; an act authorising the county courts to erect houses for the accommodation of their poor; an act providing a mode for this state receiving the net profits at the Commonwealth's Bank; an act for the benefit of the sheriffs of Warren and Green-up counties; an act forming the counties of Hickman, Graves, Calloway and M'Cracken, on the southwest of the Tennessee river; an act for the benefit of Peter Watts and John Curd's heirs; an act to extend the prison bounds; an act to regulate sales of real estate by the collector of the

town tax of Bardstown; and a resolution fixing a day for the appointment of commissioners agreeably to resolutions concerning the occupying claimant laws.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

Mr. Yantis after a short time reported, that the said bills had been presented to the governor for his approbation and signature.

A message from the senate by mr. Bowmar:

*Mr. Speaker*,

The senate concur in the amendment proposed by this house to a bill from the senate entitled, an act to amend the act entitled, an act to regulate endorsements on executions, with an amendment—in which amendment they request the concurrence of this house.

And then he withdrew.

Mr. Wickliffe from the joint committee appointed to examine the report of the President and Directors of the Louisville Branch of the Commonwealth's Bank, made the following report:

The undersigned have, in obedience to the order of the legislature, examined the report of the Branch Bank situate in the 5th district. From an inspection of said report, it appears that prior to the first day of October, 1821, the said branch had loaned to the citizens of the different counties, 276,252 dollars. So far as we can ascertain from the report, there was loaned,

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|---|---|
| To the citizens of Nelson the sum of | $68,060 |
| To the citizens of Hardin, | 24,388 |
| To the citizens of Bullitt a little upwards of | 12,000 |

To the citizens of Jefferson.

The proportion of the respective counties of the two and a half millions issued, is as follows:

| | |
|---|---|
| Nelson county, | $ 81,540 |
| Bullitt, | 18,927 |
| Hardin, | 32,994 |
| Jefferson, | 163,836 |
| | $297,297 |

The committee believe that the debts of the branch bank at Louisville are well secured, with very few exceptions.

They are not apprised that loans have been made to men *notoriously* insolvent. We find that one of the directors is

reported to have on loan $2,600; but this we presume to be a mistake.

*From the Senate,*
*SAMUEL CARPENTER.*

*From the House of Representatives,*
*C. A. WICKLIFFE,*
*E. KINCHELOE,*
*THOMAS SPEED,*
*J. ALEXANDER,*
*CRAVEN P. LUCKETT,*
*CHRISTOPHER MILLER.*

The following bills were reported from the several committees appointed to prepare and bring in the same:

By mr. Fletcher—1. A bill to amend an act entitled, an act to regulate clerks' fees and for other purposes, approved February 4th, 1817.

By mr. Logan—2. A bill further to provide for the settlement of the concerns of the Farmers' and Mechanics' Bank of Shelbyville.

By mr. Cosby—3. A bill for the benefit of the heirs of James Watkins.

And by mr. Speed—4. A bill further to amend the penal laws of this commonwealth.

Which bills were severally received and read the first time and the second and third ordered to be read a second time; the fourth was laid on the table; and the question being taken on reading the first bill a second time, it was decided in the negative, and so the said bill was rejected.

And thereupon the rule of the house, constitutional provision and second and third readings of the second and third bills being dispensed with, and the same being engrossed,

It was moved and seconded to attach to the second bill, by way of engrossed ryder, the following words:

*Provided, however,* That if any of the said banks shall not have funds, or be able to redeem the notes issued by the said banks respectively, upon application, it shall and may be lawful for the holders of any such notes to recover from the stockholders individually, of such institution, not redeeming their notes as aforesaid, the amount of such notes: *Provided,* That no stockholder shall be liable for more than the amount of stock held by him in said institution.

And the question being taken on agreeing thereto it was decided in the negative.

The yeas and nays being required thereon by messrs. Payne and M'Clanahan, were as follows:

Yeas—messrs. Allen, Bruce, Dejarnett, Green, Howard, Inglish, Lecompte, Lynch, M'Clanahan, M'Cracken, Mullens, Munford, Noland, Owsley, Payne, Pendleton, Rudd, Slack and J. Taylor—19.

Nays—mr. Speaker, messrs. Alexander, J. S. Anderson, R. C. Anderson, Barnett, Bradford, Brooking, Buford, W. O. Butler, Catlett, Clark, Cockerill, Cogswell, Cosby, Cowan, Craig, Cravens, Crawford, Davis, Desha, Duncan, Eaves, Fletcher, Gaither, Gordon, Griffith, J. G. Hardin, M. Hardin, Herald, Jackman, Johnson, Kincheloe, King, Litton, Lockett, Logan, Love, B. Mason, J. Mason, May, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, Miller, Moore, Murray, Patterson, Pearcy, Pope, Sandford, Selby, Smith, Speed, Stone of Madison, Talbot, B. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Worthington, Yancey, Yantis and Younger—69.

*Resolved*, That the second and third bills do pass; that the title of the second bill be amended by adding thereto the words 'and for other purposes;' and that of the third by adding thereto the words 'and others.'

*Ordered*, That mr. Cosby carry the said bills to the senate and request their concurrence.

Mr. Speed from the committee appointed for that purpose, made the following report:

The committee to whom was referred, the memorial of sundry citizens of Mason county on the subject of the rights and liberties of free people of color, and of the treatment of slaves, beg leave to report:

That there is an existing law of this state making it felony to steal and sell as a slave, any free person of color, punishable by confinement in the penitentiary. But as there is no statute for punishing those who shall be guilty of transporting and selling as slaves, such persons of color as would at a future day be entitled to freedom by last will and testament or deed of manumission, your committee report a bill for that purpose.

You committee regret to state, that no adequate laws have been passed, as is contemplated by the seventh section of the constitution, for obliging the owners of slaves to treat them with humanity, to provide for them necessary clothing, provisions, &c.; but this is a subject of too much importance and delicacy, to be encountered at this late period of the present session.

Your committee would further state, that there is another subject which though not directly referred to in the memorial, is connected with that subject, and is, in the opinion of your committee, of the highest interest to the good people of this state, on which they submit the following preamble and resolutions:

Whereas many cases have occurred, in relation to slaves who have escaped from their owners in this state, and have been found in the adjoining states which do not hold slaves, calculated to disturb that harmony, which it is the interest of the citizens of those states and of this commonwealth, to cultivate and preserve towards each other; and it is the wish of the legislature of this state, to use every means in its power, to prevent the recurrence of such cases in future; and it is deemed practicable by a revision of the laws in this state in relation to slaves, and of the laws of the adjoining non slave-holding states, in relation to people of color and to slaves who may come among them escaping from their owners, so to frame the laws in the respective states, as will, in a great degree, if not entirely, obviate the inconveniences which now exist: Wherefore,

*Resolved by the General Assembly of the Commonwealth of Kentucky*, That the Governor of this state be requested to correspond with the Governors of the adjoining states of Ohio, Indiana and Illinois, inviting their attention to this subject, and through them the legislatures of those states, with a request, that they will authorise the appointment of one or two commissioners from each state, to meet such commissioner or commissioners as shall be appointed on the part of this state, at such place as may be agreed upon, to bring with them copies of all the laws in force in their respective states, relating to or affecting the rights, interests or duties of free people of color, of slaves and of slave-holders, to the end that the said commissioners, after examining those laws, and duly considering the subject and consulting together, may mutually agree upon and recommend such laws on those subjects, applicable to the condition of the different states, as in their judgment, will best conduce to the private rights of citizens, and to that peace and harmony which it is so eminently the interest and duty of these states to preserve towards each other.

*Resolved*, That the governor be authorised to appoint two fit persons on the part of this state, for the purposes aforesaid, so soon as he may be informed by the Executives of

one or more of said states, that they have appointed commissioners on their part.

Which being twice read, the resolutions reported by said committee were concurred in.

*Ordered*, That mr. Speed carry the said resolutions to the senate and request their concurrence.

It was then moved and seconded to take up for consideration a bill from the senate entitled, an act to change the time of electing members to Congress.

It was then moved and seconded to postpone the said motion until the first day of March next.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Munford and Kincheloe, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, Barnett, Brooking, Bruce, Buford, Catlett, Clark, Cowan, Craig, Cravens, Davis, Dejarnett, Fletcher, Gaither, J. G. Hardin, Howard, Jackman, King, Litton, Lockett, Love, Luckett, J. Mason, M'Millan, Miller, Moore, Owsley, Pope, Rudd, Sandford, Selby, Smith, Stone of Wayne, C. H. Taylor, Todd, White, Wiley, Witherspoon, Worthington, Yancey and Yantis—42.

Nays—Messrs. Allen, J. S. Anderson, R. C. Anderson, W. O. Butler, Cockerill, Cogswell, Cosby, Crawford, Desha, Duncan, Eaves, Gordon, Green, Griffith, M. Hardin, Herald, Inglish, Johnson, Kincheloe, Lecompte, Logan, Lynch, B. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Cracken, Mullens, Munford, Murray, Noland, Patterson, Payne, Pearcy, Pendleton, Slack, Speed, Stone of Madison, Talbot, B. Taylor, J. Taylor, Thompson, Warfield, Wickliffe and Younger—47.

The said bill was then taken up and ordered to be read a second time.

A message from the senate by mr. Ward:

*Mr. Speaker*,

The senate have passed bills which originated in this house of the following titles: An act to authorise the appointment of an additional number of constables in certain counties; and an act to regulate the times of holding circuit courts, county courts and the general court in this commonwealth, with amendments to each—in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by mr. Given:

*Mr. Speaker,*

The senate concur in the amendments proposed by this house to a bill from the senate entitled, an act providing for a sale of the vacant lands west of the Tennessee river, with amendments—in which they request the concurrence of this house.

And then he withdrew.

The said amendments were then taken up, twice read and concurred in.

*Ordered,* That Mr. Pope inform the senate thereof.

A message from the senate by mr. Crutcher:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act for the benefit of Joseph Crawford and Robert Claghorn; and they recede from their first amendment proposed to resolutions from this house concerning the Bank of Kentucky and the Bank of the Commonwealth of Kentucky.

And then he withdrew.

A message from the senate by Mr. Carpenter:

*Mr. Speaker,*

The senate have passed a bill from this house entitled, an act for the relief of Elizabeth Carstarphen and Abigail Bridwell.

And then he withdrew.

Mr. Moore read and laid on the table the following resolution:

*Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky,* That when they adjourn on Thursday the 20th of December, they will adjourn *sine die.*

And thereupon the rule of the house being dispensed with, the said resolution was taken up and twice read.

It was then moved and seconded to lay the said resolution on the table.

And the question being taken thereon, it was decided in the negative.

The yeas and nays being required thereon by messrs. Yancy and Moore, were as follows:

Yeas—messrs. Allen, R. C. Anderson, Buford, W. O. Butler, Catlett, Cogswell, Cosby, Cravens, Crawford, Desha, Herald, Jackman, Lecompte, Logan, Luckett, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Murray, Payne, Pearcy, Rudd, Sandford, Shannon, Slack, Smith, Speed, Talbot,

B. Taylor, C. H. Taylor, Wickliffe, Witherspoon & Younger—40.

Nays—messrs. J. S. Anderson, Barnett, Bradford, Bruce, Clark, Cockerill, Cowan, Craig, Davis, Dejarnett, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Howard, Inglish, Johnson, Kincheloe, King, Litton, Lockett, Love, Lynch, S. M'Elroy, Moore, Mullens, Noland, Owsley, Patterson, Pendleton, Pope, Selby, Stone of Madison, Stone of Wayne, J. Taylor, Warfield, White, Wiley, Yancey and Yantis—45.

It was then moved and seconded to amend said resolution by striking out 'Thursday the 20th.'

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Yancey and Kincheloe, were as follows, viz:

Yeas—messrs. Allen, R. C. Anderson, Barnett, W. O. Butler, Catlett, Cogswell, Cosby, Cravens, Crawford, Davis, Desha, Gordon, Green, Herald, Jackman, Johnson, Lecompte, Logan, Luckett, B. Mason, J. Mason, M'Clanahan, M'Connell, M'Millan, M'Cracken, Miller, Mullers, Munford, Murray, Patterson, Payne, Pearcy, Rudd, Sandford, Slack, Smith, Speed, Talbot, B. Taylor, C. H. Taylor, Thompson, White, Wickliffe, Witherspoon, Worthington and Younger—46.

Nays—messrs. J. S. Anderson, Bradford, Bruce, Buford, Clark, Cockerill, Cowan, Craig, Dejarnett, Duncan, Eaves, Fletcher, Gaither, Griffith, J. G. Hardin, M. Hardin, Howard, Inglish, Kincheloe, King, Litton, Lockett, Love, Lynch, May, H. M'Elroy, S. M'Elroy, Moore, Noland, Owsley, Pendleton, Pope, Selby, Stone of Madison, Stone of Wayne, J. Taylor, Warfield, Wiley, Yancey and Yantis—40.

The blank in said resolution was then filled with the '21st' and the said resolution as amended adopted.

*Ordered*, That mr. Moore carry the said resolution to the senate and request their concurrence.

A message from the senate by Mr. Ward:

*Mr. Speaker*,

The senate concur in a resolution from this house, for an adjournment of the General Assembly.

And then he withdrew.

A message from the senate by Mr. Ward:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act for the relief of Samuel Howard and Nancy Fulcher.

And then he withdrew.

A message from the senate by mr. Williams:

*Mr. Speaker,*

The senate concur in resolutions which originated in this house, having for their object the preservation of harmony between this state and the adjoining non-slave holding states.

And then he withdrew.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker,*

I am directed by the governor to inform this house, that he did on this day approve and sign enrolled bills which originated in this house of the following titles:

An act for a change of venue in the case of Elisha English.

An act for the benefit of the heirs of Wm. Shannon and Jas. Bristoe.

An act to ascertain and mark the division lines between certain counties.

An act for the benefit of Henry S. Langford, infant heir of Stephen Langford, deceased.

An act for the benefit of the seminary in Harlan county.

An act to amend and repeal in part an act entitled, an act for establishing and laying off a town at the Iron Banks, approved Dec. 27th, 1820.

An act for the benefit of the clerk of the Nicholas circuit court and for other purposes.

An act for the benefit of the widow and heirs of John Willett, deceased.

An act for the benefit of Champ Mullens of Rockcastle county.

An act for the relief of Culvin Sanders and Elizabeth Davenport.

An act for the benefit of the heirs of Archibald Marshall, deceased.

An act to amend an act appointing persons to view a way for a road from Danville to the Tennessee line.

An act for the division of Floyd county.

An act to amend an act concerning a house of public worship in the town of Frankfort.

An act for the better regulation of the towns of Carlisle and Springfield.

An act for the benefit of Ambrose Camp.

An act to declare Cabin creek a navigable stream.

An act for the benefit of Mary Prewitt, administratrix of Anderson L. Prewitt dec.

An act for the divorce of sundry persons.

An act concerning Jeffersontown in Jefferson county.

An act authorising the trustees of the Union academy to sell certain lands.

An act for the benefit of the sheriffs of Warren & Green-up counties.

An act to amend an act for surveying the military claims west of the Tennessee river, approved Dec. 26, 1820.

An act providing a mode for this state receiving the net profits at the Commonwealth's Bank.

An act authorising the county courts to erect houses for the accommodation of their poor.

An act authorising the sale of the real estate and slaves of certain persons.

An act for the relief of Andrew Craig.

And then he withdrew.

*Ordered*, That Mr. Yantis inform the senate thereof.

The house took up the amendments proposed by the senate to those proposed by this house to a bill from the senate entitled, an act to amend an act regulating endorsements on executions, which was then read as follows:

Strike out the whole of the amendment proposed by the house of representatives, after the enacting clause, and insert in lieu thereof several sections.

It was then moved and seconded to amend said amendment by striking out '*three fourths*,' wherever it occurs in the amendment, and for less than which proportion of its value, the amendment provides that real or personal property, taken by virtue of an execution not endorsed by the plaintiff or plaintiffs, to receive 'notes of the Bank of Kentucky, or of the Bank of the Commonwealth or their branches in payment.' shall not be sold, and to insert in lieu thereof, '*two thirds*.'

A division of the question being called for, the question was first put upon striking out, which was decided in the negative.

The yeas and nays being required thereon by messrs. Alexander and Inglish, were as follows, viz:

Yeas—Messrs. R. C. Anderson, Barnett, Bradford, W. O. Butler, Cosby, Crawford, Dejarnett, Desha, Gordon, Howard, Logan, Love, Luckett, Lynch, S. M'Elroy, M'Cracken, Moore, Murray, Patterson, Pearcy, Pope, Slack, Smith, Speed, Stone of Madison, Todd, White, Wickliffe, Witherspoon, Yantis and Younger—31.

Nays—mr. Speaker, messrs. Alexander, Allen, Brooking, Bruce, Buford, Catlett, Clark, Cogswell, Cowan, Craig, Cravens, Davis, Duncan, Eaves, Fletcher, Gaither, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, Kincheloe, Litton, Lecompte, B. Mason, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, M'Millan, Miller, Mullens, Munford, Noland, Owsley, Rudd, Sandford, Selby, Shannon, Slaughter, Stone of Wayne, Talbot, J. Taylor, C. H. Taylor, Thompson, Warfield, Wiley, Worthington and Yancey—54.

Mr. Talbot then moved further to amend said amendment by attaching thereto the following section:

That the commissioners appointed by the county court under this act, shall be entitled to receive the sum of one dollar each for every day which they may necessarily be engaged, in the valuation of the estate taken under execution, to be paid by the defendant or defendants whose estate they may be called upon to value.

And the question being taken on agreeing thereto it was decided in the negative.

The yeas and nays being required thereon by messrs. Wickliffe and Kincheloe, were as follows:

Yeas—Messrs. R. C. Anderson, Barnett, Bradford, Cogswell, Cosby, Crawford, Dejarnett, Desha, Gordon, Green, M. Hardin, Herald, Howard, Kincheloe, Logan, Love, Lynch, May, M'Clanahan, H. M'Elroy, S. M'Elroy, M'Millan, Munford, Murray, Noland, Patterson, Pearcy, Slack, Smith, Speed, Stone of Madison, Talbot, B. Taylor, C. H. Taylor, Warfield, White, Wickliffe, Witherspoon, Yantis and Younger—40.

Nays—mr. Speaker, messrs. Alexander, Allen, Brooking, Bruce, Buford, W. O. Butler, Catlett, Clark, Cowan, Craig, Cravens, Davis, Duncan, Eaves, Fletcher, Gaither, Griffith, J. G. Hardin, Inglish, Jackman, Johnson, Litton, Lecompte, Luckett, B. Mason, J. Mason, M'Connell, M'Cracken, Miller, Moore, Mullens, Owsley, Pope, Rudd, Sandford, Selby, Shannon, Slaughter, Stone of Wayne, J. Taylor, Wiley, Worthington and Yancey—44.

Mr. Pope then moved to amend said amendment by attaching thereto the following sections:

§ 7. *Be it further enacted*, That if land exposed to sale according to the provisions of this act, will not sell for three fourths of its value, then it shall be sold for what it will bring, redeemable as hereinafter provided.

§ 8. *Be it further enacted*, That any lands within this commonwealth, which may hereafter be sold under or by virtue of any execution issued from any court, or under or by virtue of any decree in chancery, shall be redeemable by the defendant or defendants, or either of them, his or their heirs, executors, administrators or assigns, or the creditor or creditors of such defendant or defendants, at any time within two years, on the terms and under the rules and regulations hereinafter expressed.

§ 9. *Be it further enacted*, That when any lands or tenements shall be sold, after the passage of this act, by virtue of any execution or decree in chancery, it shall be the duty of the sheriff or other officer, or any person or persons authorised to make such sale, instead of executing a deed for the premises sold, to give to the purchaser or purchasers of such lands and tenements, a certificate in writing, describing the lands and tenements purchased, and the sum paid therefor, and the time when the purchaser will be entitled to a deed for such lands and tenements, unless the same shall be redeemed, as is provided in and by this act; and such sheriff or other officer, or the person or persons making such sale, shall, within twenty days from the time of such sale, file in the office of the clerk of the court from which such execution issued, or in which such decree was rendered, a duplicate of such certificate, signed by him for record; which shall be taken as evidence of the facts therein contained, and shall be considered as notice to subsequent creditors and purchasers.

§ 10. *Be it further enacted*, That it shall be lawful for any creditor of any defendant or defendants whose lands and tenements shall have been sold under any execution or decree, as mentioned in the preceding section of this act, who shall have a judgment at law or decree in chancery against such defendant or defendants, and for the heirs, executors or administrators of any creditor having such decree or judgment, within two years after such sale, to redeem the lands and tenements which shall have been so sold, by paying to the purchaser thereof, his executors, administrators or assigns, or the sheriff or other officer for the

time being, for the benefit of such purchaser, the sum in money which may have been paid on the purchase thereof, together with the interest thereon at the rate of six per centum per annum from the time of such sale, provided the defendant or defendants shall not have previously redeemed the same; and whenever any creditor shall redeem such lands or tenements as aforesaid, he shall be entitled to acquire all the rights of the original purchaser therefor; and any other creditor having such decree or judgment as aforesaid, and the executors or administrators of any such creditor, may, in like manner, redeem the lands and tenements so sold, in two years from the sale thereof, and shall become entitled to all the rights and privileges acquired by any other creditor, by reimbursing to him, his executors, administrators or assigns, the sum which may have been paid by such creditor, together with interest thereon at the rate of six per centum per annum, and by also satisfying any prior judgment or decree which such prior creditor may have against such defendant or defendants. In like manner any other creditor having such judgment or decree as aforesaid, and the executors or administrators of such creditor, may, within the time aforesaid, redeem such lands or tenements from such first, second, third or any other creditor; and upon such redemption being made in manner aforesaid, the title of the first purchaser shall be vested in such creditor or his legal representatives.

§ 11. *Be it further enacted*, That it shall and may be lawful for any defendant or defendants, his or their executors, administrators and assigns, whose land and tenements shall be hereafter sold by virtue of any execution, or under or by virtue of any decree in chancery, within two years after such sale, to redeem such lands and tenements, by paying to the purchaser thereof, his or their executors, administrators or assigns, the sum of money which may have been paid on the purchase thereof, together with interest at the rate of six per centum per annum from the time of such sale; and payment being made as aforesaid, the said sale and certificate thereof granted shall be null and void: *Provided, however*, that if before such defendant or defendants, his or their executors, administrators or assigns, shall redeem or offer to redeem by tendering the amount due to the purchaser, any other creditor or creditors of such defendant or defendants, shall have redeemed the said lands and tenements, according to the tenth section of this act, that then and in that case, such defendant or defendants, his or

their executors, administrators or assigns, may and shall be entitled, within the time of two years from the sale, to redeem such lands and tenements as aforesaid, in like manner, from the last redeeming creditor, by reimbursing to such creditor, his executors, administrators or assigns, the sum which may have been paid by such creditor, together with interest thereon from the time of such payment at the rate of 6 per cent. per annum, & by also satisfying any prior judgment or decree which such creditor may have against such defendants; & payment being made as aforesaid, the said sale & certificate thereof granted shall be null and void.

§ 12. *Be it further enacted*, That upon every such sale as aforesaid, all the lien of the creditor in the judgment made as aforesaid and by virtue of which such lands and tenements may be sold, shall cease and determine, except what lien such creditor may acquire as a purchaser of such lands and tenements, upon a sale made as aforesaid under or by virtue of a decree in chancery or execution upon a judgment at law.

§ 13. *Be it further enacted*, That if the defendant or defendants shall redeem any lands or tenements sold as aforesaid, within the time limited by this act, it shall be the duty of the sheriff or other officer, to enter satisfaction of record.

§ 14. *Be it further enacted*, That if such lands or tenements so sold, shall not be redeemed as aforesaid, either by the defendant or defendants, or by such creditor as aforesaid, within two years from the time of such sale, it shall be the duty of the sheriff for the time being, or other officer who shall have sold the same, and the successor or successors in office of such sheriff or other officer, to complete such sale by executing a deed for the premises so sold, to the said purchaser, and a writ of possession shall be awarded accordingly; and if any creditor shall redeem such lands or tenements as aforesaid, it shall be the duty of such sheriff or other officer, on the expiration of two years from the time of such sale, to execute a deed of the premises so sold to such creditor as the assignee of the original purchaser, and such deed shall be as valid and effectual in law as if such creditor had been the original purchaser.

§ 15. *Be it further enacted*, That if at any time after the sale of the premises aforesaid, and before the expiration of the time allowed for redeeming the same, the debtor or any person in the possession of the premises thus sold, shall do any act of waste thereon, it shall be lawful for any judge exercising chancery jurisdiction, on application of the pur-

chaser or his authorised agent for the purpose, and on satisfactory proof being made of waste having been committed by such debtor or occupant, or that there is good reason to apprehend that such waste will be committed, to grant an order against such wrongdoer, to stay any further waste, under such penalties as such judge shall impose, conformable to the powers and regulations incident to a court in chancery in all other cases.

§ 16. *Be it further enacted*, That this act shall not apply to any sale made under any execution endorsed, that notes of the Bank of Kentucky and notes of the Bank of the Commonwealth of Kentucky and their branches, will be taken in payment.

§ 17. *Be it further enacted*, That all acts or parts of acts authorising or directing lands to be sold under executions or decrees, on credit, shall be, and the same are hereby repealed; and hereafter they shall be sold for ready money. This act shall commence and be in force from and after the first day of January next.

And the question being taken on agreeing thereto it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Pope and Luckett, were as follows:

Yeas—messrs. R. C. Anderson, Barnett, Bradford, Bruce, W. O. Butler, Catlett, Cosby, Craig, Cravens, Crawford, Desha, Fletcher, Gordon, M. Hardin, Herald, Howard, Jackman, Johnson, Lockett, Logan, Love, Luckett, Lynch, B. Mason, May, S. M'Elroy, M'Millan, M'Cracken, Munford, Murray, Noland, Pearcy, Pope, Selby, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, B. Taylor, C. H. Taylor, Thompson, Warfield, White, Wickliffe, Witherspoon, Worthington, Yantis and Younger—50.

Nays—mr. Speaker, messrs. Alexander, Allen, Brooking, Buford, Clark, Cogswell, Cowan, Davis, Dejarnett, Duncan, Eaves, Gaither, Green, Griffith, J. G. Hardin, Inglish, Kincheloe, King, Litton, Lecompte, J. Mason, M'Clanahan, M'Connell, H. M'Elroy, Miller, Moore, Mullens, Owsley, Patterson, Rudd, Sandford, Stone of Wayne, Talbot, J. Taylor, Wiley, and Yancey—37.

It was then moved and seconded at six o'clock, P. M. that this house adjourn.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Inglish and Yancey, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, Allen, R. C. Anderson, Barnett, Bradford, Brooking, Bruce, Buford, W. O. Butler, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Crawford, Davis, Desha, Fletcher, Gaither, Griffith, J. G. Hardin, M. Hardin, Herald, Jackman, Johnson, Kincheloe, Lecompte, Lockett, Logan, Love, Luckett, Lynch, B. Mason, J. Mason, May, M'Connell, S. M'Elroy, M'Millan, Moore, Mullens, Murray, Patterson, Pearcy, Pope, Sandford, Selby, Shannon, Slack, Slaughter, Speed, Stone of Wayne, B. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Yantis and Younger—64.

Nays—Messrs. Cravens, Dejarnett, Duncan, Eaves, Gordon, Green, Howard, Inglish, King, Litton, H. M'Elroy, M'Cracken, Miller, Munford, Noland, Owsley, Smith, Stone of Madison, Talbot, J. Taylor and Yancey—21.

## THURSDAY, DECEMBER 20, 1821.

Mr. Yantis from the joint committee of enrolments, reported that the committee had examined enrolled bills and resolutions of the following titles: An act for the benefit of Joseph Crawford and Robert Claghorn; an act for the relief of Samuel Howard and Nancy Fulcher; an act for the relief of Elizabeth Carstarphen and Abigail Birdwell; resolutions concerning the Bank of Kentucky & the Bank of the Commonwealth of Kentucky,; and resolutions having for their object the preservation of harmony between this state and the adjoining non slave holding states.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That Mr. Yantis inform the senate thereof.

A message from the senate by mr. Ewing:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act to amend the several acts taxing billiard tables and for other purposes.

And then he withdrew.

The house took up the amendments proposed by the senate to a bill which originated in this house entitled, an act to regulate the times of holding circuit courts, county courts, and the general court in this commonwealth.

Which being twice read, the first and third were disagreed to, and the second, fourth, fifth and sixth, concurred in.

*Ordered*, That mr. Warfield inform the senate thereof.

Mr. Love from the select committee to whom was referred, a bill regulating the turnpike and wilderness state road, reported the same without amendment.

*Ordered*, That the said bill be laid on the table.

The house took up a resolution laid on the table by Mr. Worthington on the 28th ultimo, which was twice read, amended and adopted in the following words:

*Resolved by the legislature of this Commonwealth*, That a tomb-stone be erected to the memory of General Charles Scott, a hero of the revolution; one to the memory of Colonel Christopher Greenup; and one to the memory of Major George Madison, late Governor of Kentucky, with suitable inscriptions to each; and that they be furnished by the keeper of the penitentiary.

*Ordered*, That mr. Worthington carry the said resolution to the senate and request their concurrence.

The following bills were reported from the several committees appointed to prepare and bring in the same:

By Mr. Smith—1. A bill appointing commissioners to examine Rockcastle river.

And by Mr. Jackman—2. A bill for the divorce of Polly Chambers.

Which bills were severally received and read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of the said bills being dispensed with, and the same being engrossed,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That Mr. Smith carry the former and Mr. Jackman the latter bill to the senate and request their concurrence.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate have passed a bill entitled, an act to regulate the time of holding the county court of Hickman—in which bill they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Ward:

*Mr. Speaker*,

The senate have passed a bill which originated in this house entitled, an act for the benefit of the heirs of James Watkins and others.

And then he withdrew.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker,*

I am directed by the governor to inform this house, that he did on the 19th inst. approve and sign an enrolled bill which originated in this house entitled, an act for the benefit of the widow and heirs of Martin Hawkins and Henry Clifton, dec.

And then he withdrew.

*Ordered*, That mr. Crawford inform the senate thereof.

A message from the senate by mr. Beauchamp:

*Mr. Speaker,*

The senate disagree to a bill which originated in this house entitled, an act for the appropriation of money.

And then he withdrew.

A message from the senate by mr. Ewing:

*Mr. Speaker,*

I am directed by the senate to request a withdrawal of a bill which originated in this house entitled, an act for the appropriation of money, and rejected by the senate.

And then he withdrew.

*Ordered*, That leave be given to withdraw said bill, and that Mr. Howard inform the senate thereof.

A message from the senate by mr. Owens:

*Mr. Speaker,*

The senate insist on their first and third amendments proposed to a bill which originated in this house entitled, an act to regulate the times of holding circuit courts, county courts and the general court in this Commonwealth.

And then he withdrew.

A message from the senate by Mr. M'Afee:

*Mr. Speaker,*

The senate concur in a resolution which originated in this house for printing the laws and journals, with an amendment—in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by mr. Ewing:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act further to provide for the settlement of the concerns of the Farmers' and Mechanics' Bank of Shelbyville, and for other purposes.

And then he withdrew.

A message from the senate by Mr. Bowmar:

*Mr. Speaker,*

The senate have passed a bill which originated in this house entitled, an act for the divorce of Polly Chambers.

And then he withdrew.

A message from the Senate by Mr. Ewing:

*Mr. Speaker,*

The senate have passed bills which originated in this house of the following titles: An act appointing commissioners to examine Rockcastle river; and an act for the appropriation of money, with amendments to the latter bill—in which they request the concurrence of this house.

And then he withdrew.

The house proceeded to consider the amendments proposed by the senate upon concurring in those proposed by this house, to a bill from the senate entitled, an act to amend an act entitled, an act to regulate endorsements on executions.

A reconsideration of the vote adopting the amendment proposed by Mr. Pope, being had, and the same being withdrawn,

Mr. B. Taylor then moved to amend the said amendment of the senate by attaching thereto the following section:

*Be it further enacted,* That where the property first exposed to sale under the provisions of this act, fails to sell for three fourths of its valuation as aforesaid, and the defendant fails to authorise its sale for such price as it will command, it shall be the duty of the officer having the collection of the debt, to cause a valuation of othey property of the defendant (if such he has) to be made, which in like manner shall be exposed to sale, until the whole of the property of the defendant is exposed to sale, unless the execution is satisfied by the sale of a part thereof.

And the question being taken on agreeing thereto, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Howard and Clark, were as follows:

Yeas—Mr. Speaker, Messrs. Barnett, Bradford, Cogswell, Cowan, Crawford, Dejarnett, Desha, Gordon, Green, Howard, Johnson, Kincheloe, Lockett, Logan, Love, Lynch, B. Mason, H. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Murray, Noland, Patterson, Payne, Pearcy, Pope, Selby, Slack, Smith, Speed, Stone of Madison, Talbot, B. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Witherspoon, Yantis and Younger—45.

Nays—messrs. Alexander, Allen, Brooking, Bruce, Byford, Catlett, Clark, Cosby, Craig, Cravens, Davis, Duncan, Eaves, Fletcher, Gaither, Griffith, J. G. Hardin, Harald, Inglish, Jackman, King, Litton, Lecompte, Luckett, J. Mason, May, M'Clanahan, M'Connell, S. M'Elroy, Mullens, Munford, Owsley, O'Bannon, Rudd, Sandford, Shannon, Slaughter, Stone of Wayne, J. Taylor, Wiley, Worthington and Yancey—42.

Mr. Pope then moved further to amend said amendment by attaching thereto the following sections:

§ 7. *Be it further enacted*, That if land exposed to sale according to the provisions of this act, will not sell for three fourths of its value, then it shall be sold for what it will bring, redeemable as hereinafter provided.

§ 8. *Be it further enacted*, That when any lands or tenements shall be sold, after the passage of this act, by virtue of any execution or decree in chancery, it shall be the duty of the sheriff or other officer, or any person or persons authorised to make such sale, instead of executing a deed for the premises sold, to give to the purchaser or purchasers of such lands and tenements, a certificate in writing, describing the lands and tenements purchased, and the sum paid therefor, and the time when the purchaser will be entitled to a deed for such lands and tenements, unless the same shall be redeemed, as is provided in and by this act; and such sheriff or other officer, or the person or persons making such sale, shall, within twenty days from the time of such sale, file in the office of the clerk of the court from which such execution issued, or in which such decree was rendered, a duplicate of such certificate, signed by him for record; which shall be taken as evidence of the facts therein contained, and shall be considered as notice to subsequent creditors and purchasers.

§ 9. *Be it further enacted*, That it shall be lawful for any creditor of any defendant or defendants whose lands and tenements shall have been sold under any execution or decree, as mentioned in the preceding section of this act, who shall have a judgment at law or decree in chancery against such defendant or defendants, and for the heirs, executors or administrators of any creditor having such decree or judgment, within three years after such sale, to redeem the lands and tenements which shall have been so sold, by paying to the purchaser thereof, his executors, administrators or assigns, or the sheriff or other officer for the time being, for the benefit of such purchaser, the sum in mo-

ney which may have been paid on the purchase thereof, together with the interest thereon at the rate of six per centum per annum from the time of such sale, provided the defendant or defendants shall not have previously redeemed the same; and whenever any creditor shall redeem such lands or tenements as aforesaid, he shall be entitled to acquire all the rights of the original purchaser therefor; and any other creditor having such decree or judgment as aforesaid, and the executors or administrators of any such creditor, may, in like manner, redeem the lands and tenements so sold, in three years from the sale thereof, and shall become entitled to all the rights and privileges acquired by any other creditor, by reimbursing to him, his executors, administrators or assigns, the sum which may have been paid by such creditor, together with interest thereon at the rate of six per centum per annum, and by also satisfying any prior judgment or decree which such prior creditor may have against such defendant or defendants. In like manner any other creditor having such judgment or decree as aforesaid, and the executors or administrators of such creditor, may, within the time aforesaid, redeem such lands or tenements from such first, second, third or any other creditor; and upon such redemption being made in manner aforesaid, the title of the first purchaser shall be vested in such creditor or his legal representatives.

§ 10. *Be it further enacted*, That it shall and may be lawful for any defendant or defendants, his or their executors, administrators and assigns, whose land and tenements shall be hereafter sold by virtue of any execution, or under or by virtue of any decree in chancery, within two years after such sale, to redeem such lands and tenements, by paying to the purchaser thereof, his or their executors, administrators or assigns, the sum of money which may have been paid on the purchase thereof, together with interest at the rate of six per centum per annum from the time of such sale; and payment being made as aforesaid, the said sale and certificate thereof granted shall be null and void: *Provided, however*, that if before such defendant or defendants, his or their executors, administrators or assigns, shall redeem or offer to redeem by tendering the amount due to the purchaser, any other creditor or creditors of such defendant or defendants, shall have redeemed the said lands and tenements, according to the ninth section of this act, that then and in that case, such defendant or defendants, his or their executors, administrators or assigns, may and shall be

entitled, within the time of three years from the sale, to redeem such lands and tenements as aforesaid, in like manner, from the last redeeming creditor, by reimbursing to such creditor, his executors, administrators or assigns, the sum which may have been paid by such creditor, together with interest thereon from the time of such payment at the rate of 6 per cent. per annum, & by also satisfying any prior judgment or decree which such creditor may have against such defendant or defendants; & payment being made as aforesaid, the said sale & certificate thereof granted shall be null and void.

§ 11. *Be it further enacted*, That upon every such sale made as aforesaid, all the lien of the creditor in the judgment or decree under and by virtue of which such lands and tenements may be sold, shall cease and determine, except what lien such creditor may acquire as a purchaser of such lands and tenements, upon a sale made as aforesaid under or by virtue of a decree in chancery or execution upon a judgment at law.

§ 12. *Be it further enacted*, That if the defendant or defendants shall redeem any lands or tenements sold as aforesaid, within the time limited by this act, it shall be the duty of the sheriff or other officer, to enter satisfaction of record.

§ 13. *Be it further enacted*, That if such lands or tenements so sold, shall not be redeemed as aforesaid, either by the defendant or defendants, or by such creditor as aforesaid, within two years from the time of such sale, it shall be the duty of the sheriff for the time being, or other officer who shall have sold the same, and the successor or successors in office of such sheriff or other officer, to complete such sale by executing a deed for the premises so sold, to the said purchaser, and a writ of possession shall be awarded accordingly; and if any creditor shall redeem such lands or tenements as aforesaid, it shall be the duty of such sheriff or other officer, on the expiration of two years from the time of such sale, to execute a deed of the premises so sold to such creditor as the assignee of the original purchaser, and such deed shall be as valid and effectual in law as if such creditor had been the original purchaser.

§ 14. *Be it further enacted*, That if at any time after the sale of the premises aforesaid, and before the expiration of the time allowed for redeeming the same, the debtor or any person in the possession of the premises thus sold, shall do any act of waste thereon, it shall be lawful for any judge exercising chancery jurisdiction, on application of the purchaser or his authorised agent for the purpose, and on sat-

isfactory proof being made of waste having been committed by such debtor or occupant, or that there is good reason to apprehend that such waste will be committed, to grant an order against such wrongdoer, to stay any further waste, under such penalties as such judge shall impose, conformable to the powers and regulations incident to a court in chancery in all other cases.

§ 15. *Be it further enacted*, That neither the defendant or defendants, nor any other creditor, shall have the right to redeem real estate sold under any execution or decree, whether an endorsement is made that notes on the Bank of the Commonwealth or the Bank of Kentucky, or not, will be received in payment, if the same has sold for three fourths of its value, and in every case the same shall be valued according to the provisions of this act.

§ 16. *Be it further enacted*, That all acts or parts of acts authorising or directing lands to be sold under executions or decrees, on credit, shall be, and the same are hereby repealed; and hereafter they shall be sold for ready money. This act shall commence and be in force from and after the first day of January next.

And the question being taken on agreeing thereto, it was decided in the negative.

The yeas and nays being required thereon by messrs. Pope and were as follows, viz:

Yeas—Messrs. Cosby, Craig, Desha, Howard, King, Logan, Love, Lynch, B. Mason, M'Millan, M'Cracken, Noland, Payne, Pearcy, Pope, Selby, Slack, Stone of Madison, C. H. Taylor, Todd, Warfield, White, Yantis & Younger—24.

Nays—mr. Speaker, messrs. Alexander, Allen, Barnett, Bradford, Brooking, Bruce, Buford, W. O. Butler, Catlett, Clark, Cogswell, Cowan, Cravens, Crawford, Davis, Dejarnett, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, Kincheloe, Litton, Lecompte, Lockett, J. Mason, May, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, Miller, Moore, Mullens, Munford, Murray, Owsley, O'Bannon, Patterson, Sandford, Shannon, Slaughter, Smith, Speed, Stone of Wayne, Talbot, B. Taylor, J. Taylor, Wickliffe, Wiley, Witherspoon, Worthington and Yancey—62.

The said amendment of the senate having been amended to read as follows:

That real and personal estate taken under execution, or which may be subjected to sale by execution, order of sale,

or decree in chancery, shall be first appraised, before a sale thereof shall be made, as hereinafter directed.

When any sheriff, constable or other officer, shall levy an execution upon any personal or real estate, he shall at the time deliver to the defendant or defendants therein, or to his or their agent or attorney, if residing within the county, an inventory of said property, signed with his name and style of office, and shall note thereon the time and place, when and where the same is by him intended to be sold.

It shall be the duty of the several county courts in this commonwealth, to appoint ten fit and discreet house keepers in each county as commissioners, who shall be sworn to act impartially in the valuation of property in money, under the provisions of this act, any two of whom shall be sufficient to make the valuation of the property contained in the said inventory; and in case of their disagreement, may choose a disinterested umpire, and certify to the sheriff or other officer, the value or appraisement thereof, taking each article or set of articles, as it or they stand, or are specified in said inventory; and the sheriff or other officer shall, on the day of the sale, expose the said goods, chattels or real estate to public sale, or so much thereof as by the said appraisement, shall be equal to the amount of said execution or executions, offering first the goods and chattels, if any, exclusive of slaves, next slaves if any, and lastly, the land or real estate, if any, or so much thereof as shall be sufficient; but the defendant or owner of said property, shall have a right to direct that his slaves, if any, or land, if any, shall first be exposed to sale; and the sheriff or other officer, shall sell to the highest bidder or bidders, the said appraised property, provided the same will bring three fourths of the value put thereon in the said appraisement; but if less than three fourths the said appraised value, only, is bid, such articles or parts thereof, for which less only is bid, shall not be sold: *And provided* that no more shall be exposed to sale, than by said appraisment will cover the amount of the execution or executions, except that in selling the last article it may over reach said amount, in which case the surplus shall be paid to the defendant whose property shall have been sold. But the owner or owners of said property, may, by his or their consent in writing, have a further exposure of any part of said appraised property, if that or any part which has been exposed, shall not be sold as aforesaid; and the said owner or owners, may permit, by

his or their consent, the said property, or any part, to be sold for less than three fourths the said appraised value.

The officer levying an execution or executions, whether the same is or is not indorsed, that no security of any kind is to be taken, or whether said execution has been issued upon a replevin bond or not, shall allow the personal or moveable property taken in execution, to remain in the possession and care of the defendant or defendants, if he or they, or any one or more of them, or any person for him or them, shall give such officer a bond, made payable to the plaintiff or plaintiffs, with good security, conditioned for the delivery of said property, at the time and place appointed for the sale thereof; and said officer shall annex a list or inventory of said property to the said bond, with an appraisement, which he shall put upon each species or article of said property, and if any of it shall not be delivered or forthcoming, according to the condition of said bond, the appraised value put thereon by said officer, shall be *prima facie* evidence of the value of so much of said property as shall not be delivered or forthcoming, as aforesaid, and the plaintiff or plaintiffs in said execution, or his or their agent or attorney, shall, by motion to the court or justice of the peace from whence such execution issued, or before some other justice of the peace, recover a judgment against the obligors of said bond or either of them, for the value of the articles not delivered or forthcoming as aforesaid; and the court or justice of the peace, as the case may be, shall give judgment for the value of so much of the said property which shall not have been delivered or forthcoming according to the condition of said bond and costs: *Provided*, That no judgment shall be rendered against the obligors in said bond or either of them, unless they have ten days' previous notice of said motion, and upon the trial it shall be competent for said obligors to contest the value of said property as put thereon by said officer, and the fact of its non delivery or not being forthcoming, or may allege its loss or destruction. A justice of the peace shall have cognizance of the whole case, when the execution under which said bond was executed shall have been issued by a justice, and a court of competent jurisdiction, may order any issue or issues of fact, if necessary, to be tried by a jury, and give judgment accordingly; and upon such judgment of the court or justice, the plaintiff or plaintiffs may sue out execution & property taken under execution such shall be sold for read[illegible] money without valuation for whatever it

will bring, and the amount, except costs, shall be credited upon the former judgment or execution; but this proceeding shall not be had, after the judgment upon which the former execution was issued, shall be satisfied, nor shall the obligors of said delivery bond be liable for the non-delivery of any property contained therein, which may have been lost or destroyed by unavoidable accident or casualty, before the day of sale: *Provided*, that the owner or any other for him, give notice to the said officer, on or before said day, of such loss or destruction, supported by affidavit, which notice the officer shall return with said bond, and the plaintiff or plaintiffs may, at his or their option, release said property, not delivered, from said execution, or may proceed on said bond as above directed, and the officer to whom an execution shall be directed upon a judgment resulting from such motion, shall secure the property in his own hands, taken under said execution, and shall not take security for its delivery, and the clerk or justice issuing said execution, shall indorse thereon, in substance, that it was recovered upon a delivery bond, and that no further security is to be taken.

So much of the property taken in execution and exposed to sale as before directed, which shall not sell for three fourths of its appraised value as before directed, shall be returned by the officer exposing the same to sale, to the defendant, owner thereof, unless it shall have been sold at a less price by consent of said owner or owners; and the said property and real estate not sold as aforesaid, shall be released from the said execution or executions, but shall be again liable to any future execution upon the same judgment or decree, or the execution of any other person or persons, and shall be proceeded on in either case, in all respects, as before directed by this act.

Property, real or personal, or bank stock, which shall be liable to be sold by any officer, or by any commissioner or commissioners under any order of sale or decree in chancery, shall be appraised and proceeded on in all respects, as required by this act, in case of proceedings by execution; and property mortgaged or conveyed in trust, shall not be sold by any officer or commissioner or commissioners, for less than three fourths of its said appraised value, unless the owner or owners, mortgagor or mortgagors, or person or persons creating the trust, shall consent that it may be sold for less.

*Be it further enacted*, That if the plaintiff or plaintiffs in any suit or execution, order of sale or decree in chancery, shall indorse or cause to be indorsed thereon, before said execution shall be levied upon the property of the defendant or defendants therein, that notes of the Bank of the Commonwealth of Kentucky and of its branches, and notes of the Bank of Kentucky and of its branches, will be received in discharge of the said execution, order of sale or decree in chancery, where such indorsement shall in substance be made, on an execution, order of sale or decree in chancery, the sheriff, other officer or commissioners, shall proceed to sell the property or estate upon which said execution shall be levied, or which may be subject to said order of sale or decree, under existing laws, for what said property or estate will bring, without having the appraisement or valuation provided for by this act; and the foregoing sections of this act, shall not apply to the proceedings to be had upon an execution, order of sale or decree in chancery, indorsed as above provided for in this section of this act.

The question was then taken on concurring in the said amendment as amended, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Clark and Pope, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, Allen, Bruce, Buford, W. O. Butler, Catlett, Clark, Cogswell, Cowan, Craig, Cravens, Crawford, Davis, Duncan, Eaves, Fletcher, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Jackman, Johnson, Kincheloe, Litton, Lecompte, J. Mason, M'Clanahan, M'Connell, Moore, Mullens, Murray, Owsley, O'Bannon, Payne, Rudd, Sandford, Shannon, Speed, Stone of Wayne, Talbot, B. Taylor, J. Taylor, Todd, Warfield, Wiley, Witherspoon, Worthington and Yancey—52.

Nays—Messrs. R. C. Anderson, Barnett, Bradford, Brooking, Cosby, Dejarnett, Desha, Gaither, Gordon, Green, Howard, King, Lockett, Logan, Love, Luckett, Lynch, B. Mason, May, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Munford, Noland, Patterson, Pearcy, Pope, Selby, Slack, Slaughter, Smith, Stone of Madison, C. H. Taylor, Thompson, White, Wickliffe, Yantis and Younger—41.

*Ordered*, That MR. Cowan inform the senate thereof and request their concurrence in said amendments.

A message from the senate by Mr. Ewing;

*Mr. Speaker*,

The senate concur in a resolution which originated in this house for the erection of tomb stones in memory of the late Governors of Kentucky, with an amendment—in which they request the concurrence of this house.

And then he withdrew.

The house proceeded to reconsider the first and third amendments proposed by the senate to a bill which originated in this house entitled, an act to regulate the time of holding circuit courts, county courts and the general court in this commonwealth; which being again read,

*Resolved*, That this house adhere to their disagreement to the said amendment.

*Ordered*, That Mr. inform the senate thereof.

The amendments proposed by the senate to a bill which originated in this house entitled, an act to authorise the appointment of additional constables in certain counties, and to resolutions from this house of the following titles: A resolution for printing the laws and journals; and a resolution for the erection of tomb-stones in memory of the late Governors of Kentucky,

Were severally twice read and concurred in.

*Ordered*, That Mr. inform the senate thereof.

The house took up the amendments proposed by the senate to a bill from this house entitled, an act for the appropriation of money.

The 1st. 2d, 3d, 4th, 5th and 6th were concurred in. with an amendment to the sixth. The seventh amendment of the senate was then read as follows. viz:

From and after the first Monday in August next, the wages of the members of the general assembly shall be three dollars per day.

And the question being taken on concurring in the said amendment, it was decided in the negative.

The yeas and nays being required thereon by messrs. Yancey and Alexander, were as follows, viz:

Yeas—mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Buford, atlett, Cosby, Cowan, Craig, Cravens, Davis, Jackman, Johnson, King, Lockett, Love, J. Mason, May, Moore, Owsley, Rudd, Witherspoon, and Worthington—28.

Nays—Messrs. Allen, Bradford, Brooking, Bruce, W. O. Butler, Clark, Cogswell, Dejarnett, Desha, Duncan, Eaves, Fletcher, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Kincheloe,

Litton, Lecompte, Logan, Luckett, Lynch, B. Mason, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Mullens, Munford, Murray, Noland, O'Bannon, Patterson, Pearcy, Pope, Sandford, Shannon, Slack, Slaughter, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Yancey, Yantis and Younger—64.

The eighth amendment of the senate was then read as follows:

From and after the first day of January next, the salary of the Treasurer shall be fifteen hundred dollars per annum, in lieu of the salary now allowed by law.

And the question being taken on concurring in the said amendment, it was decided in the negative.

The yeas and nays being required thereon by messrs. Yancey and were as follows:

Yeas——Mr. Speaker, messrs. Alexander, R. C. Anderson, Barnett, Bradford, W. O. Butler, Catlett, Clark, Cosby, Cowan, Craig, Davis, Fletcher, Howard, Jackman, Johnson, King, Logan, Love, Luckett, J. Mason, May, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, Moore, Murray, Rudd, Shannon, Speed, Stone of Madison, Talbot, B. Taylor, Todd, Warfield, White, Wickliffe and Witherspoon—39.

Nays—messrs. Allen, Brooking, Bruce, Buford, Cogswell, Cravens, Dejarnett, Desha, Duncan, Eaves, Gaither, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Inglish, Kincheloe, Litton, Lecompte, Lockett, Lynch, B. Mason, M'Clanahan, M'Cracken, Miller, Mullens, Munford, Noland, Owsley, O'Bannon, Patterson, Pearcy, Pope, Sandford, Selby, Slack, Slaughter, Smith, Stone of Wayne, J. Taylor, C. H. Taylor, Thompson, Wiley, Yancey, Yantis and Younger—48.

*Ordered*, That Mr. inform the senate thereof.

A message from the senate by Mr. Owens:

*Mr. Speaker*,

The senate recede from their first amendment proposed to a bill from this house entitled, an act to regulate the time of holding circuit courts, county courts and the general court in this commonwealth, with an amendment—in which they request the concurrence of this house. And they insist on their third amendment to said bill, and request a committee of conference on the part of this house, to meet

a committee of two appointed by the senate, on the subject of said third amendment.

And then he withdrew.

A message from the senate by Mr. M'Afee:

*Mr. Speaker,*

The senate concur in the amendments proposed by this house to those proposed by the senate, upon concurring in those proposed by this house to a bill from the senate entitled, an act to amend an act entitled, an act to regulate endorsements on executions, with amendments—in which they request the concurrence of this house.

And then he withdrew.

A message from the senate by Mr. Ward:

*Mr. Speaker,*

The senate adhere to their sixth, seventh and eighth amendments proposed to a bill which originated in this house entitled, an act for the appropriation of money.

And then he withdrew.

A bill for the improvement of the navigation of Big Sandy river, was read the second time and ordered to be engrossed and read a third time.

A bill from the senate entitled, an act for the benefit of Luke Munsell, was read a second time and ordered to be read a third time.

An engrossed bill entitled, an act to incorporate the Lexington Medical society, was read a third time.

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That Mr. Shannon carry the said bill to the senate and request their concurrence.

An engrossed bill entitled, an act to improve the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling Fork, to the summit of Muldrough's hill, was read a third time.

It was then moved and seconded to fill the blank in the first section of said bill with $1000, as the amount of appropriation for that object.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Duncan and Cosby, were as follows:

Yeas—messrs. Alexander, R. C. Anderson, Barnett, Bradford, Brooking, Buford, W. O. Butler, Catlett, Clark, Cosby, Cowan, Crawford, Davis, Desha, Fletcher, Gaither, Gordon, Green, M. Hardin, Jackman, Johnson, Logan,

Love, Luckett, J. Mason, May, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Moore, Munford, O'Bannon, Patterson, Pope, Selby, Shannon, Slack, Slaughter, Smith, Speed, Talbot, B. Taylor, Thompson, White, Wickliffe, Worthington and Yantis—48.

Nays—messrs. Allen, Bruce, Cravens, Dejarnett, Duncan, Eaves, Griffith, J. G. Hardin, Howard, Inglish, Kincheloe, King, Litton, Lecompte, Lockett, Lynch, B. Mason, M'Clanahan, M'Connell, Miller, Mullens, Noland, Owsley, Pearcy, Rudd, Sandford, Stone of Wayne, J. Taylor, C. H. Taylor, Warfield, Wiley, Yancey and Younger—33.

*Resolved*, That the said bill do pass and that the title thereof be as aforesaid.

*Ordered*, That mr. Cosby carry the said bill to the senate and request their concurrence.

A message from the senate by mr. Ward:

*Mr. Speaker*,

The senate concur in the amendments proposed by this house upon concurring in those proposed by the senate to a bill from this house entitled, an act to authorise the appointment of an additional number of constables in certain counties. And they have passed a bill which originated in this house entitled, an act to incorporrte the Lexington Medical Society.

And then he withdrew.

And then the house adjourned.

## FRIDAY, DECEMBER 21, 1821.

The house took up a resolution laid on the table by Mr. Luckett on the 11th instant, for an interchange of Maps with the several states of the Union, which being twice read was adopted.

*Ordered*, That mr Luckett carry the said resolution to the senate and request their concurrence.

A message from the senate by mr. Pope:

*Mr. Speaker*,

The senate have passed a bill from this house entitled, an act to improve the road leading from Lexington to Nashville in Tennessee from where the same crosses the Rolling Fork to h summit of Muldrough's hill.

And then he withdrew.

A message from the senate by Mr. Anderson:

*Mr. Speaker*,

The senate have passed a bill entitled, an act establishing inspections of tobacco and flour at the mouth of sinking creek—in which bill they request the concurrence of this house.

And then he withdrew.

The house proceeded to reconsider the amendments proposed by the senate upon receding from their first amendment proposed to a bill from this house entitled, an act to regulate the time of holding circuit courts, county courts and the general court in this commonwealth.

Which being twice read was concurred in; and messrs. Yantis, King, Munford and Yancey, were appointed a committee of conference on the part of this house, on the subject of the third amendment of the senate proposed to said bill.

The said committee then retired and after a short time returned, when Mr. Yantis reported, that the joint committee had come to the following resolution:

*Resolved*, That the senate ought to recede from their said third amendment proposed to said bill.

A message from the senate by Mr. Owens:

*Mr. Speaker*,

The senate recede from their third amendment proposed to a bill which originated in this house entitled, an act to regulate the time of holding the circuit courts, county courts and the general court in this commonwealth.

And then he withdrew.

The house took up the amendments proposed by the senate upon concurring in those proposed by this house, to those proposed by the senate upon concurring in those proposed by this house, to a bill from the senate entitled, an act to amend an act entitled, an act to regulate endorsements on executions.

The first amendment was then read as follows: Insert after the word 'defendant' in the amendment of this house (being that offered by Mr. B. Taylor on yesterday and adopted) "to be successively selected by such defendant or defendants."

The question was then taken on concurring in the said amendment of the senate, which was decided in the affirmative.

The yeas and nays being required thereon by messrs. Wickliffe and J. Taylor, were as follows:

Yeas—mr. Speaker, messrs. Alexander, Allen, Bradford, Brooking, Bruce, Buford, W. O. Butler, Catlett, Clark, Cogswell, Cosby, Cowan, Craig, Cravens, Davis, Duncan, Eaves, Fletcher, Griffith, J. G. Hardin, Herald, Inglish, Jackman, Kincheloe, Lecompte, Lynch, J. Mason, May, M'Clanahan, M'Connell, S. M'Elroy, Moore, Mullens, Munford, Noland, O'Bannon, Patterson, Payne, Sandford, Selby, Shannon, Slaughter, Stone of Wayne, J. Taylor, Wiley, Witherspoon, Yancey and Younger—49.

Nays—Messrs. R. C. Anderson, Barnett, Crawford, Dejarnett, Desha, Howard, Logan, Luckett, B. Mason, H. M'Elroy, M'Millan, M'Cracken, Miller, Murray, Pearcy, Slack, Smith, Speed, Stone of Madison, Talbot, C. H. Taylor, Thompson, Todd, Warfield and Wickliffe—25.

The remaining amendments of the senate were then concurred in.

*Ordered*, That mr. Warfield inform the senate thereof.

A message from the Senate by Mr. Ewing:

*Mr. Speaker*,

The senate have adopted a resolution which originated in this house, for an exchange of the Maps of this state for those of other states, with amendments—in which they request the concurrence of this house.

And then he withdrew.

The said amendments were then taken up, twice read and concurred in.

*Ordered*, That Mr. Luckett inform the senate thereof.

The house then proceeded to reconsider the several amendments proposed by the senate to a bill from this house entitled, an act for the appropriation of money,

*Resolved*, That this house insist upon their amendment proposed to the sixth amendment of the senate; and that they insist on their disagreement to the seventh amendment of the senate.

The eighth amendment of the senate, which proposes to increase the annual salary of the Treasurer to $1500 was again read.

It was then moved and seconded that this house insist on their disagreement to the said amendment.

And the question being taken thereon, it was decided in the affirmative.

The yeas and nays being required thereon by messrs. Talbot and Yancey, were as follows, viz:

Yeas—messrs. Allen, Bradford, Bruce, Cosby, Cowan, Cravens, Crawford, Dejarnett, Desha, Duncan, Eaves,

Gordon, J. G. Hardin, M. Hardin, Herald, Kincheloe, Litton, Lecompte, Lynch, B. Mason, M'Clanahan, S. M'Elroy, M'Cracken, Miller, Mullens, Munford, Noland, O'Bannon, Patterson, Pearcy, Pope, Rudd, Sandford, Selby, Slack, Slaughter, Smith, Stone of Wayne, J. Taylor, C. H. Taylor, Warfield, Wickliffe, Wiley, Yancey and Younger—45.

Nays—Mr. Speaker, Messrs. Alexander, R. C. Anderson, Barnett, Brooking, W. O. Butler, Catlett, Clark, Cogswell, Craig, Davis, Fletcher, Howard, Jackman, Johnson, Logan, Love, Luckett, J. Mason, May, M'Connell, H. M'Elroy, M'Millan, Moore, Murray, Payne, Shannon, Stone of Madison, Talbot, B. Taylor, Thompson, Todd, White and Witherspoon—34.

*Ordered*, hat mr. Pope inform the senate thereof, and request the appointment of a committee of conference on the part of the senate, to meet a committee to be appointed on the part of this house, on the subject of the 6th, 7th and 8th amendments to said bill.

*Ordered*, That messrs. Pope, Shannon, Rudd and Warfield, compose the committee on the part of this house.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

I am directed to inform this house, that the senate have appointed a committee of conference on their part on the subject of the 6th, 7th and 8th amendments of the senate to the appropriation bill.

And then he withdrew,

A message from the senate by mr. Hickman:

*Mr. Speaker*,

The senate have passed a bill entitled, an act for the relief of the surveyor of Bourbon county—in which bill they request the concurrence of this house.

And then he withdrew,

Mr. Pope from the committee of conference on the appropriation bill, made the following report:

The committee of conference agree to recommend to their respective houses, that the house of representatives recede from their amendment to the 6th amendment of the senate and concur in the same; they also recommend, that the senate recede from their 7th and 8th amendments.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

The senate disagree to the report of the committee of conference on the subject of the appropriation bill.

And then he withdrew.

*Resolved*, That this house adhere to their amendment proposed to the sixth amendment of the senate, and that they adhere to their disagreement to the seventh and eighth amendments of the senate.

The yeas and nays being required thereon by messrs Cowan and Yancey, were as follows, viz:

Yeas—Mr. Speaker, messrs. Alexander, Allen, Barnett, Bradford, Brooking, Bruce, Buford, W. O. Butler, Cogswell, Cowan, Cravens, Crawford, Davis, Duncan, Eaves, Fletcher, Gordon, Green, Griffith, J. G. Hardin, M. Hardin, Herald, Howard, Inglish, Jackman, Kincheloe, Litton, Lecompte, Lockett, Logan, B. Mason, J. Mason, M'Clanahan, M'Connell, H. M'Elroy, S. M'Elroy, M'Millan, M'Cracken, Miller, Moore, Mullens, Munford, Noland, O'Bannon, Patterson, Payne, Pearcy, Pope, Sandford, Selby, Shannon, Slack, Smith, Speed, Stone of Madison, Stone of Wayne, Talbot, B. Taylor, J. Taylor, C. H. Taylor, Thompson, Todd, Warfield, White, Wickliffe, Wiley, Witherspoon, Yanceyand Younger—70.

Nays—messrs. Craig, and Johnson—2.

*Ordered*, That Mr. Pope inform the senate thereof.

The following engrossed bills and bills from the senate, were severally read a third time: 1. an act to amend an act entitled, an act to authorise the establishment of private passways; 2. an act for the benefit of the first regiment of Kentucky militia; 3. an act for the improvement of the navigation of Big Sandy river; 4. a bill from the senate entitled, an act for the benefit of Luke Munsell; 5. a bill from the senate entitled, an act providing for the repairing and improving of the Penitentiary; and 6. an act to restrict the county courts in laying their levies and the mode of letting their public buildings.

The first and third were postponed until the first day of June next; and the fifth until the first day of March next.

*Resolved*, That the second, fourth and sixth bills do pass; that the title of the second be amended by adding thereto the words 'and for other purposes;' and that those of the fourth and sixth bills be as aforesaid.

*Ordered*, That Mr. Lockett inform the senate thereof and request their concurrence in the second and sixth bills.

The following bills were severally read a second time: 1. A bill to amend and change the several acts respecting public roads; 2. a bill for the divorce of Rebecca Thompson; 3. a bill authorising the citizens of Trigg county to fix on a place for the permanent seat of justice of said coun-

ty; 4. a bill to add a part of Madison county to the county of Rockcastle; and 5. a bill from the senate entitled, an act for the benefit of Guilliaume Marie Paul Villeminot.

The first was laid on the table; the second third and fourth were severally ordered to be engrossed and read a third time; and the question being taken on reading the 5th bill a third time, it was decided in the negative, and so the said bill was rejected.

*Ordered*. That Mr. Cowan inform the senate thereof.

And thereupon the rule of the house, constitutional provision and third reading of the second, third and fourth bills being dispensed with,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That mr Clark carry the said bills to the senate and request their concurrence.

Bills from the senate of the following titles: 1. An act for the benefit of the sergeant of the court of appeals; 2. an act for the benefit of the legatees of William Kincaid, dec.; 3. an act for the relief of the surveyor of Bourbon county; 4. an act to amend an act entitled, an act for the better regulation of the town of Falmouth, approved February 5, 1817; 5. an act establishing inspections of tobacco and flour at the mouth of Sinking creek; 6. an act to amend an act entitled, an act concerning attornies for the commonwealth; 7. an act to regulate the time of holding the county courts of Hickman; and 8. an act authorising certain repairs and improvements to the government house & lot;

Were severally read the first time and ordered to be read a second time.

And thereupon the rule of the house, constitutional provision and second and third readings of said bills being dispensed with,

*Resolved*, That the said bills do pass and that the titles thereof be as aforesaid.

*Ordered*, That mr. Warfield inform the senate thereof.

A message from the senate by Mr. Davidson:

*Mr. Speaker*,

The senate have passed bills which originated in this house of the following titles: An act for the benefit of the first regiment of Kentucky militia; an act to declare Cabin creek a navigable stream; an act authorising the citizens of Trigg county to fix on a place for the permanent seat of justice for said county; an act to add a part of Madison county to the county of Rockcastle; an act to restrict the coun-

ty courts in laying their levies and the mode of letting their public buildings.

And then he withdrew.

A message from the senate by Mr. Ewing:

*Mr. Speaker,*

The senate request a withdrawal of the bill from this house entitled, an act for the appropriation of money, with the vote of the senate thereon adhering to their amendments proposed to said bill.

And then he withdrew.

On motion,

*Resolved,* That this house will reconsider their vote of adherence to their disagreement to the amendments proposed by the senate to said bill; and that the said bill be returned to the senate.

*Ordered,* That Mr. Pope inform the senate thereof.

A message from the senate by Mr. Ewing:

*Mr. Speaker,*

The senate have reconsidered their vote rejecting the report of the committee of conference on the subject of the sixth, seventh and eighth amendments proposed by the senate to a bill from this house entitled, an act for the appropriation of money, and adhering to said amendments; and they have appointed a committee of conference of six on the part of the senate, to meet such committee as shall be appointed on the part of this house, (the appointment of which is requested) to confer on the subject of said amendments.

And then he withdrew.

Whereupon, messrs. Warfield, Pope, Moore, Shannon, Cosby and Yancey, were appointed on the part of this house.

*Ordered,* That Mr. Pope inform the senate thereof.

The said committee then retired and after a short time returned, when Mr. Pope reported, that the committee had discharged the duty assigned them, but were unable to effect any agreement with the committee of the senate.

A message from the senate by Mr. Ewing:

*Mr. Speaker,*

The senate concur in the amendment proposed by this house, upon concurring in the sixth amendment proposed by the senate to a bill from this house entitled, an act for the appropriation of money; and they recede from their seventh and eighth amendments proposed to said bill.

And then he withdrew.

On motion,

*Ordered*, That the public printers forthwith print 200 copies of the bill entitled, an act regulating the time of holding circuit courts, county courts and the general court in this commonwealth; 1000 copies of a bill entitled, an act providing for a sale of the vacant lands west of the Tennessee river; and 1500 copies of the bill entitled, an act to amend an act entitled, an act to regulate endorsements on executions, for the use of the members of this house; and that he immediately thereafter deposit the same with the secretary of state, with a request that he shall transmit by mail to the members of this house, as many copies of each of said bills, as they shall be respectively entitled to.

The house took up a resolution laid on the table on the 29th ultimo by MR. Worthington, relative to the South American Patriots, which being twice read was adopted.

On motion,

*Ordered*, That the memorials of John Kenney and Thos. T. Barr, preferring charges against Benjamin Mills, one of the judges of the court of appeals, and the response of the judge to each of said memorials, be spread upon the journals of this house; and the same was thereupon accordingly done, and are in the following words:

To the honorable the House of Representatives of the General Assembly of Kentucky, the memorial of John Kenney of Bourbon county, respectfully sheweth:

That impelled by a duty which he owes to himself, as well as that which he owes to his country, he feels himself bound to bring in review before your honorable body, certain conduct of Benjamin Mills, now a judge of the court of appeals, which appears to him to require the exercise of some of the *high constitutional powers* of your house; powers which, in common with many of his fellow-citizens, *he* conceives necessary to be exercised, touching the subject of this memorial; and which, if not properly exercised, he believes will materially affect the character of our judiciary system abroad, and lessen the confidence of the people in it at *home*. And in these views he believes your honorable body will entirely concur with him in opinion; *for such of late have been the strides of judicial power*, that most men have become alarmed, and the wisest do not pretend to see where they will *end*.

With these preliminary remarks, your memorialist proceeds to state the particular case which immediately inter-

ests him, and respecting which, he particularly desires the interference of your honorable body.

On the 12th of March, 1815, James Kenney, the father of your memorialist, made his will, devising to your memorialist, to the heirs of James Kenney, Jr. to Joseph Kenney and to Victor Kenney, certain real and other property, and on the next day, unfortunately departed this life: That his will was duly proved at the June term of the Bourbon county court thereafter, and recorded in the clerk's office of said court, as the records will shew: That some of the devisees of the land estate, differed with your memorialist and with themselves, respecting the proper and correct construction of said will; & some of them being infants, your memorialist, desirous to bring the affairs of the said estate to a final settlement, and being advised that that object could only be obtained by a suit in chancery, determined to pursue that course: That having great and entire confidence in the integrity, talents and legal knowledge and judgment of the aforesaid Benjamin Mills, now one of the judges of the court of appeals, who then practiced as a lawyer in said county, your memorialist applied to him for his advice and counsel touching the case; who advised your memorialist to bring suit, and engaged to prosecute it for him: That said Mills afterwards drew his bill in chancery, filed the same, and which is now of record in the clerk's office of the Bourbon circuit court, your memorialist paying said Mills the tax upon the subpœna before the said bill was filed; and the subpœna was subsequently issued, and the fee afterwards settled, which was agreed to be paid for managing the cause as a lawyer thereafter: That the object of the bill was to establish the claim of your memorialist under said will, to about 250 acres of first rate land, worth, as your memorialist believes, about 6000 dollars, of which he had been in possession upwards of twenty years, as can be established by many witnesses, and which the said Mills, who had long resided in the neighborhood, well knew: That during the pendency of said suit, & after said Mills had as aforesaid, filed in his own hand writing said bill, one of the devisees aforesaid, took possession of a great part of the estate as above devised to your memorialist, and which estate, it was the object of your memorialist to establish by said Mills, as said Mills well knew, when your memorialist was compelled to sue out a writ of *forcible entry and detainer* to recover possession of the same; upon which the jury empannelled, sustained the claim of your memorialist, whose verdict

was traversed and the cause carried up to the circuit court, the original suit being then pending, which the said Mills well knew, and of which he was duly advised. Your honorable body will, therefore, be astonished, as your memorialist really was at the time, when you are *now* informed, that the said Mills appeared against him as counsel in the appeal, to oppose a claim which he had been *previously paid for to sustain and establish under the said will.*

Appalled by conduct so treacherous, so contrary to every notion and idea which he had ever heard of the duty which a lawyer owed to his client, deceived in the character of said Mills, whom he had before supposed to be a true, just and honorable man, as professionally bound to keep not only the *secrets*, but to sustain the *claims* of his *client*, and possessed of but a very limited knowledge of the law himself, your memorialist was driven to the necessity of flying to & employing Jesse Bledsoe, Esq another lawyer, to defend and sustain his claims to the land in question. To him he paid a fee of one hundred dollars on the occasion; and that gentleman, he requests your honorable body to examine upon the subject.

Had the cause of your memorialist ended here, it is possible that your honorable body might not have been troubled with the preceding statement of his grievances. But it has been carried up to the court of appeals, of which court the said Mills is a judge, and is now pending on its docket; and the loss of the suit may cost your memorialist several thousands of dollars. If your memorialist could not at this time, and under these circumstances, repose faith in the said Mills as a lawyer, he must, therefore, repose less confidence in his impartiality as a judge; particularly, as he has understood, that in a cause involving the immense sum of sixty thousand dollars, he has decided that he could be a judge in his own cause; because he has been informed, upon good authority, the said Mills has been, since he was appointed a judge, engaged in causes *below;* because, since he was appointed as a judge of the court of appeals, he has, with much indelicacy and indecorum, interfered in the concerns of courts *below*, and has acted as judge of the revising court, in one cause which he had decided himself upon, in a court *below.*

Upon principles of public policy, your memorialist begs leave to remark, that he conceives that no man can be worthy to hold a seat upon the bench, who is not like Cæsar's wife, beyond suspicion; who will not reflect dignity upon

the court, by the impartiality and integrity of his conduct; and in whose *honesty*, the public can repose entire confidence. Now, what confidence can the public repose in a judge, who as a lawyer, has actually taken a fee on one day to *sustain* a *claim*, after being entrusted with all the secrets of his *client*, and on the next, and whilst the same cause is pending, takes another to *defeat* it? What respect will the country have for the decisions of a judge, who either prepares, manages or argues causes, in courts below? Suppose the said causes should come before him as a judge of the court of revision, that is the court of appeals! Would not a suitor look with dismay at the judge? Could he expect a fair hearing, when the judge had before been *paid* to *think* and *manage* the suits against him? Such is the unfortunate situation in which your memorialist is now placed. He has *paid* judge Mills to support and sustain his claim: Judge Mills took an *after* fee from his opponent to defeat it; and he is now a judge of the last resort to decide upon it—the cause being yet pending in the court of appeals. And can, he asks your honorable body, expect a fair hearing, when the judge has decided in the cases of the Bank of Kentucky against Fowler and Wier, that he was competent to sit in trial upon the same, he being at the same time a stockholder of said Bank, as your memorialist is informed, and a director of one of its branches.

Your memorialist may be asked, why the legislature should interfere to punish the *judge* for his conduct whilst acting as a *lawyer?* To this he replies, that this may be necessary at times, to secure respect to our judicial tribunals and the proper administration of justice. Suppose, for example, a lawyer had taken fees on both sides, and the fact was known pending his nomination, would his appointment ever be confirmed by any honest and enlightened legislature? Surely not; for dishonest motives would be expected to influence him as much upon the bench as at the bar. In the one case his profit would assume the name of a *fee*, and in the other, that of a *bribe*. When, therefore, *subsequently* to his appointment as a judge, it should be discovered, that he has acted corruptly as a lawyer, should he not be removed from office as a judge, to give confidence to the people in our system of jurisprudence, and respect for the laws? The framers of our constitution support your memorialist in all these positions; for they have provided, not merely for cases of punishment for actual misdemeanor when the judge is in office, by way of impeachment; but by the 3d section

of the 4th article of that instrument, "that for any reasonable cause which shall not be a sufficient ground for impeachment, the governor shall remove any of them on the address of two thirds of each house of the general assembly;" wisely thus submitting to the *sound discretion* of the legislature, the power of removing men from office which they would disgrace, when past offences which they had committed were discovered; and when indelicate, disorderly and improper conduct should take place upon their part, which should not be a sufficient ground of impeachment.

Wherefore, your memorialist prays. that your honorable body will inquire into the conduct of said judge Mills, and he pledges himself to furnish to any committee which your honorable body may select, a list of witnesses of respectable character, who will prove all the charges herein set forth.

And, as in duty bound, he will ever pray, &c.

## SECOND CHARGES.

Charge 1.—For sitting as a judge in the Fayette circuit court, in several causes wherein he was interested, and for *partiality* as a judge.

Specification 1.—For pressing the plaintiffs in the case of Coleman and Megowan *vs.* Tilford and others, into a trial suddenly, when he indulged the Bank of Kentucky under the same circumstances, for a considerable space of time, on the *same day*.

Specification 2.—For sitting in many cases wherein he was interested as a stockholder of the Bank of Kentucky, when the said Bank was concerned as a party.

Specification 3.—For incorporating in one case in the court of appeals, wherein the Bank of Kentucky was concerned, a principle which was not decided by the court, nor in the record as the opinion of said court, when it was not so in fact—the opinion being evidently given to affect a subsequent class of causes, which were soon thereafter expected to come on, and in which said Bank was concerned.

Charge 2.—For preparing, since he has been a judge of the court of appeals, one cause in the Bourbon circuit court, that of Spears and Baylor, by which Baylor suffered great loss of property.

Charge 3.—For having, since he has been a judge, managed and argued many causes as counsel.

Charge 4.—For having, when a judge of the Fayette circuit court, violated the constitutional rights of the citizen and of juries, by prohibiting counsel in a criminal case from addressing the jury upon the proper construction of the constitution—that of the Commonwealth *vs.* Beard.

Charge 5.—For having, in the case of *vs* Winn, in the court of appeals, given to the clerk an opinion as that of the court, and then withdrawing it and giving another one on the other side, in the absence of the parties thereto.

Charge 6.—Sitting in the court of appeals in one cause, which he had decided before in a court below.

Charge 7.—Sitting in one cause in the court of appeals, he being a stockholder in the Bank of Kentucky, when said Bank was concerned, when he composed but one member of two members of that court, and judge Owsley had declined sitting because he was a stockholder.

## JUDGE MILLS' FIRST RESPONSE.

*To the Hon. John Yantis, Chairman of the select committee to whom is referred, the memorial of John Kenney.*

SIR,

I lay before you and through you before the committee over whom you preside, the following response to the charge in said memorial, in which I am implicated:

It is true that John Kenney brought his suit in chancery in the Bourbon circuit court, against his infant half brothers, Victor and Joseph Kenney, and perhaps his step mother, Margaret Kenney, the widow of his deceased father. The object of this suit was, to demark by metes and bounds, a devise to him in the will of his father, the construction of which was a matter of doubt. It is true this respondent was then at the bar, and was spoken to and agreed to be the counsel of the said John Kenney, in conducting the suit. But it is not true, that I ever received a fee for conducting said suit; and when I left the bar, I abandoned it as one which I was not bound to pay further attention, never having received any compensation. This suit has since been tried and a decree rendered therein, the contents of which, I have never examined; but have been possessed of its details by the information of counsel concerned. The suit is now depending on the docket of the court of appeals; whither it has been brought by Mrs. Kenney, as guardian for her infant children. Whether I did or did not write the bill, I will not positively say without inspection of it, after the lapse of several years. I have been under the impres-

sion, since this matter has been canvassed here, that other counsel employed, wrote the bill. This matter can be determined by an inspection of the bill, if necessary; but I deem it wholly immaterial who wrote it.

A writ or warrant of forcible entry and detainer was brought upon the same docket, by a traverse, where I obtained the first knowledge of it. In this traverse, I believe (speaking from recollection, without having examined the records) John Kenney was plaintiff below, against one of the tenants of his step mother, and in this case I was never spoken to by John Kenney, nor was any intimation given by him, that he wished me as his counsel. I was employed on the other side and defeated him, by obtaining an instruction of the court, that he could not recover: he having wholly failed to prove a possession in fact of the premises claimed.

I cannot remember whether this warrant was brought after the pendency of the suit in chancery. I am under an impression that it was before; but on this point, I refer to the records, which will speak with more certainty.

Were I to admit that the warrant was brought pending the bill for the same land, and that I was engaged as counsel to support the bill, & had taken a fee to defeat the warrant of forcible entry and detainer, the committee are well aware that the remedies are entirely different—are supported by different testimony, and terminate in a different issue; and that his defeat in the forcible entry and detainer, could not in any shape, prejudice his rights claimed in the bill. And there was no necessity of making use of the pretended '*secrets*' of his chancery suit, to operate against his warrant. As to any '*secrets*' in his case, I was possessed of none, and believe he had none, except his secret purposes of darkness, into which no man of integrity ought ever to enter.

But I do not rest my answer on this ground. I utterly deny that the bill in chancery and warrant of forcible entry and detainer, were for the same land. His claim under the will was limited by the Mountsterling road, as will be seen by an inspection of the will in the records of the office of the court of appeals; and his warrant of forcible entry and detainer, was brought for land lying north or north east of the road, to which he never had a color of claim, except what arose from his ruthless disposition to invade the possessions of his infant brothers, which was disturbed in more instances than one. The whole truth then is, that I took a fee

or the promise of one, to defeat his lawless aggressions by his warrant, on the lands of his infant brothers. I attempted to support his plausible claim to other lands under the will, by a bill in equity, resting on his assurances of compensation, which were never fulfilled; but the fulfillment is substituted by his rancor and his slander. Any statements of the memorial, different from the foregoing, and all charges imputing the receipt of fees on different sides, I pronounce to be false fabrications, designed to poison the minds of, and impose upon the legislature.

Thus far I have answered the only matter which assumes the shape of a charge in the memorial. The rest is slanderous insinuation, thrown in by way of abuse under the disguise of reasons for his charge, of which I hope to be indulged in taking some notice. He states that his suit has gone to the appellate court, and if it was not there you would not have been troubled with his grievances. I am there and may be his judge; hence his great sensibility. No doubt the suit being there, or rather, an incident which happened, since it was there, has heightened his tremulous sensations. This incident I will relate. When coming to the court at the last spring term, at the request of Mrs. Kenney or her counsel, as a favor, I brought the copy of the record on the appeal and a letter to Gen. M. D. Hardin, a practicing counsel in the court, requesting him to peruse the record and send back his opinion and terms of employment. The record I left with the clerk and gave the letter to Gen. Hardin. A few mornings afterwards, the clerk presented me with an order from Mrs. Kenney, disavowing her agency in the appeal, and directing its positive dismission. Recollecting the anxiety expressed with regard to the appeal, on the part of Mrs. Kenney, and the dubious character of her adversary, I at once suggested to the clerk, that I doubted the genuineness of the order, and the clerk thereupon declined dismissing the appeal till further advised. I communicated these facts to the counsel of Mrs. Kenney in the court below; and he shortly afterwards, furnished me with, and requested me to file, a written statement of Mrs. Kenney, disavowing the first order and declaring it to be a forgery, and also a statement or affidavit of the subscribing witness, Joseph Kenney, denying that he had ever witnessed the first order. These last documents were likewise lodged by me, as requested, with the clerk of the appellate court, where I presume the whole writings can be

seen, and where the memorialist may account for the first order if he can. If he really made and filed the first order, he may account for his borrowing and using the names of others too freely on paper, with more difficulty than he can account for lending his name to the memorial; for it is not admitted that the style, the diction, or language of the composition, is that of the nominal memorialist, and not one letter of the body or signature was written by him. It is the work of another, who had rather stab in the dark than come to open combat—whose name, if known, could add no weight to the charges; but who, placed beside the nominal memorialist, is one of a *par nobile fratrum*, assimilated and associated in the closest ties of malignity and spleen.

As to my sitting in the revising court in '*one case*' decided by myself while on the circuit court bench, I have done it in not only one case, but many; some of which I have concurred in reversing, being convinced that they had been at first erroneously decided, owing to that haste and hurry of business, in which every circuit judge must often decide.

It is true, while on the circuit court bench in Fayette, the suit of the Bank of Kentucky against Fowler and Weir, was called and a continuance asked, but refused, made on the sole ground of an intention or wish to remove the suit, because I was at that time, a director in one of the branches of the institution, and held a small pittance of stock therein. It is known to every lawyer, that a wish to change the venue under the general act of assembly regulating that matter, is only a ground of continuance, at the first term to which the process is returned; and this suit had remained many terms on the docket after the return of process, and hence the continuance was refused, and the jury not agreeing in their verdict, no judgment was rendered. As to a judge retiring from the contests of an institution so ramified, least the judgment, if against the Bank, might per possibility in the event, after a series of years, lessen his estate a few incalculable cents, arising from his small interest in the institution, I conceive it a delicacy more affected than real: and whenever it is exercised, it is more to escape the painful feeling occasioned by the censorious language of such men as the memorialist and his abettors, than any consciousness that interest might influence the decision. It might as well be argued, that the circuit judge who renders a judgment for a fine or forfeiture equal to his county levy, for one or two years, was incom-

petent to render the judgment, because the proceeds of it going to the treasury of his county, might extinguish his own levy for a period of time.

It is well known, that when I quit the bar suddenly, I was engaged in a laborious and extensive practice. To rid myself of professional engagements, and dissolve all the relations between attorney and client, with satisfaction to the parties in suits depending, was a matter of some difficulty. In cases like that of the memorialist, where I had received no fees, I surrendered them to the clients & allowed them to procure counsel elsewhere. In those, where I had received compensation, knowing I should never under any circumstances, adjudicate upon them, I have kept my eye over their preparation, and gave directions how to prepare, and procured substitutes to argue them. In a few cases, while sitting on the circuit court bench, I argued in courts other than my own, some few points of law before the court; but never made an argument before a jury; nor have I argued any point of law before either court or jury, since I have been on the bench of the appellate court. In one case since my seat on the bench, I interfered in the preparation of a case, in which I was not previously engaged as a lawyer.—But this case affected a small lot of land claimed by me, adjoining the town of Paris, and my title might have been extinguished by a decree in the suit against the person from whom I obtained the lot. Under such circumstances, I did not permit "*delicacy* or *decorum*" to cause me to lie by silently and let my property be lost; but I attended to some parts of the preparation of the suit.

In all this, I see nothing transgressing the rules of propriety, or evincing the slightest degree of turpitude.

As to insinuations, that in a cause of sixty thousand dollars of my own, I decided that I was a competent judge—that since I was a judge, I engaged in causes in courts below—that I with *indelicacy* and *indecorum*, interfered in the concerns of inferior courts, or have had more to do with them than above stated—and all other insidious allegations in the memorial, different from the foregoing, are utterly groundless, and their falsehood is only equalled by the corruption of the source from which they flow.

A word as to the high glow of feeling and patriotic sentiment, which are profaned by a place in the memorial. If I could for a moment believe, that the nominal memorialist was entitled to the credit of either the language or the sen-

timents, or was the author of any part, I would say, that a person who had long acted the part of a bruiser or bully among the ruffians of society, and who pursued the midnight employment of the Red Rag, Faro Bank and Wheel of Fortune, was wholly incapable of such sentiments or feelings. But this I forbear, well knowing, that his amanuensis and supporter, is entitled to the credit of the composition, and that he can express the language like the parrot, and yet be a stranger to the sentiment—and that he and his hero with whom he has associated himself, are more conversant with the feelings of '*alarm*' not only at the '*strides*,' but of the shortest steps of '*judicial power*,' to which they may often be amenable, for their crimes, misdemeanors and defalcations.

In haste, Mr. Chairman, and gentlemen of the committee, I have drawn up and submitted this response, to charges first industriously circulated through almost every room, and in every listening ear, in a shape intangible, and from a source which could not be approached without contamination, and which could only affect my reputation where that source was unknown. I am pleased that they have, through the channel of the house of representatives, reached your hands, where they can be answered with honor instead of degradation.

The high respect I entertain for the enquiring tribunal to which they are committed, has alone caused me to be thus minute. I am unmoved by the prospect of any supposed consequences, and possessing a consciousness in the integrity of the motives which have guided my judicial course, I am ready to meet any enquiry, which your wisdom may prescribe. I am unassailed by any other feelings than those which must necessarily arise from an insidious attempt to wound reputation, coming from a source so contemptible. To this latter sensation, attribute any intemperate expression which may have escaped, and bestow on it your indulgence, and impute it not to any want of respect to that department of government of which you form a part, or the individuals of your body.

B. MILLS.

Frankfort, Oct. 19, 1821.

## JUDGE MILLS' SECOND RESPONSE.

SIR—To the additional charges referred to the select committee over which you preside, I return you the following answer:

To the first specification I deny that the suit of Coleman and Megowan against Tilford and others, was improperly or suddenly pressed into trial, or that I indulged the Bank of Kentucky under the same or similar circumstances, on the *same day*. And it is wholly untrue, that there was ever any difference made between the Bank and other suitors in court.

I also deny incorporating in one case in the court of appeals, wherein the Bank of Kentucky was concerned, a principle which was not decided by the court, nor in the record, as the opinion of the court, when it was not so in fact, or that the opinion was given to affect a subsequent class of cases, soon thereafter to come on. It is not true that any opinion or judgment of that court was ever entered, during my seat on the bench, without a concurrence of a majority of the court. The record and opinion in the case alluded to, if the committee will examine it, will show conclusively, that every question decided was involved. I will barely remark, that this is an attempt to reinvestigate, in this form, a *judicial question*.

The fourth charge is wholly unfounded. In the Fayette circuit court, in the case of the Commonwealth against Beard, and in other cases, it was attempted by counsel defending, to inculcate this principle, that juries had an *omnipotent* right to decide the *law* as well as *fact*, and that in criminal cases, the functions of the judge dwindled to the mere keeping of order. Well knowing that it belongs to the court to decide the law in *criminal* as well as *civil* cases, and never having discovered a page in any law book which maintained a different doctrine, I did sustain the functions of a court so far, as to prevent the counsel for the accused, attempting to induce the jury to repeal an act of assembly. I well knew, that the constitutionality of a law was a judicial question, which was reserved and could be tried in that court or a court of the last resort, in the case alluded to.

I wholly deny the imputation contained in the fifth charge. An opinion was written by myself in the case alluded to, which on consultation was disagreed to. A new one was prepared according to what was determined in conference.

This new opinion was read and judgment ordered accordingly, and the old opinion was casually left in the record till it was discovered by the clerk and handed back to the bench, and this has furnished the only color for this charge.

The second specification of the first charge, the third, sixth and seventh charges, were insinuated in the original memorial, and have there received their answer, or at least, all that need be given them.

In the case of Spears against Baylor, alluded to in the second charge, I was employed long before the suit was brought, and before my appointment to the bench, as counsel. I was present at the trial and took no part in the argument. After the trial was over, at the request of the counsel then employed, and on their suggestion that I was better acquainted with the facts, wrote the bill of exceptions, or rather the statement of the evidence on which the exception was founded. This much, as stated in my original answer, I have done in other cases, where I had been employed while at the bar.

I am, sir, with respect, your ob't. serv't.

B. MILLS.

A message from the Senate by Mr. Ewing:

*Mr. Speaker,*

The senate unanimously concur in a resolution from this house, relative to the South American Patriots.

And then he withdrew.

Mr. Crawford from the joint committee of enrolments, reported that the committee had examined enrolled bills and resolutions of the following titles: An act further to provide for the settlement of the concerns of the Farmers' and Mechanics' Bank of Shelbyville, and for other purposes; an act to incorporate the Lexington Medical Society; an act to authorise the appointment of additional constables in certain counties; an act to amend the several acts taxing billiard tables and for other purposes; an act appointing commissioners to examine Rockcastle river; an act for the divorce of Polly Chambers; an act for the benefit of the heirs of James Watkins and others; an act providing for a sale of the vacant lands west of the Tennessee river; a resolution for erecting tomb-stones in memory of the late governors of Kentucky; a resolution for printing the laws and journals; an act to amend an act entitled, an act to regulate endorsements on executions; an act to regulate the times

of holding circuit courts, county courts and the general court in this commonwealth; an act to improve the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling Fork to the summit of Muldrough's hill; an act for the benefit of the first regiment of Kentucky militia, and for other purposes; a resolution for an exchange of Maps with other states of the Union; an act to declare Cabin creek a navigable stream; an act authorising the citizens of Trigg county to fix on a place for the permanent seat of justice of said county; an act to add a part of Madison county to the county of Rockcastle; an act to restrict the county courts in laying their levies and the mode of letting their public buildings; an act for the appropriation of money; an act to amend an act entitled, an act for the better regulation of the town of Falmouth, approved February 5, 1817; an act for the benefit of the sergeant of the court of appeals; an act to regulate the times of holding the county court of Hickman; an act establishing inspections of tobacco and flour at the mouth of Sinking creek; an act for the relief of the surveyor of Bourbon county; an act for the benefit of Luke Munsell; an act for the benefit of the legatees of William Kincaid, deceased; an act authorising certain repairs & improvements to be made to the government house and lot; an act to amend an act entitled, an act concerning attornies for the commonwealth; and a resolution relative to the South American Patriots.

And had found the same truly enrolled.

Whereupon the speaker affixed his signature thereto.

*Ordered*, That mr Crawford inform the senate thereof.

A message from the senate by mr. Williams:

*Mr. Speaker*,

The senate have received official information, that the governor did on this day, appprove and sign enrolled bills which originated in that house of the following titles: An act to amend an act entitled, an act to regulate endorsements on executions; an act providing for the sale of vacant lands west of the Tennessee river.

And then he withdrew.

A message from the governor by Mr. Breckinridge, his secretary:

*Mr. Speaker*,

I am directed by the governor to inform this house, that he did on this day approve and sign enrolled bills which originated in this house of the following titles: An act fur-

ther to provide for the settlement of the concerns of the Farmers' and Mechanics' Bank of Shelbyville, and for other purposes; an act to amend the law concerning constables; an act to amend the several acts taxing billiard tables, and for other pnrposes; an act for the benefit of the heirs of James Watkins and others; an act appointing commissioners to examine Rockcastle river; an act for the divorce of Polly Chambers; a resolution for the erection of tombstones in memory of the late governors of Kentucky; resolutions for printing the acts and journals; an act to incorporate the Lexington Medical Society; an act to regulate the times of holding circuit courts, county courts and the general court in this commonwealth; an act to improve the road leading from Lexington to Nashville in Tennessee, from where the same crosses the Rolling Fork, to the summit of Muldrough's hill; an act for the benefit of the first regiment of Kentucky militia, and for other purposes; a resolution for the exchange of maps with other states of the Union; an act for the divorce of Rebecca Thompson; an act authorising the citizens of Trigg county to fix on a place for a permanent seat of justice for said county; an act for the appropriation of money; an act to restrict the county courts in laying their levies and the mode of letting their public buildings; an act to add a part of Madison county to the county of Rockcastle; a resolution relative to the South American Patriots.

And then he withdrew.

*Ordered*, That a message be sent to the senate, informing them that this house, having finished the legislative business before it, is now ready to adjourn without day; but are nevertheless, disposed to remain in session, until it may suit the wishes and convenience of the senate to adjourn also; that they have appointed a committee on the part of this house, of messrs. Yantis, Wickliffe, Logan and Yancey, to wait on the governor and inform him of the intended adjonrnment of the General Assembly, and to know whether he had any further communication to make; and that Mr. Yantis carry the said message.

A message from the senate by Mr. Ewing:

*Mr. Speaker*,

I am directed by the senate to inform this house, that the senate having finished the legislative business before them, is now ready to adjourn without day; and have appointed a committee on their part to act in conjunction with the

committee appointed by this house, to wait on the governor and inform him of the intended adjournment of the General Assembly, and to know whether he has any further communication to make.

And then he withdrew.

The said committee then retired, and after a short time returned, when Mr. Yantis reported that the joint committee had discharged the duty assigned them, and were informed by his excellency, that he had no further communications to make.

Whereupon, the Speaker having delivered a congratulatory and valedictory address, adjourned the house without day.

The Speaker having retired, the following resolution was submitted, twice read and adopted, viz:

*Resolved*, That the thanks of the members of this house, are due to the Hon. G. C. Thompson, for the able and impartial discharge of the duties of Speaker, during the present session.

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